TITLE 54
STATE GOVERNMENT

CHAPTER 54-01
SOVEREIGNTY AND JURISDICTION OF STATE

54-01-01. Original and ultimate title to all property in state.

The original and ultimate right to all property, real or personal, within the limits of this state is in the state.

54-01-02. When property escheats.

All property, real and personal, within the limits of this state, which does not belong to any person or to the United States, belongs to the state. Whenever the title to any property fails for want of heirs or next of kin, it reverts to the state.

54-01-02.1. Unclaimed funds defined.

Repealed by S.L. 1975, ch. 425, § 29.

54-01-02.2. Notice of unclaimed funds.

Repealed by S.L. 1975, ch. 425, § 29.

54-01-02.3. Disposal of unclaimed funds.

Repealed by S.L. 1975, ch. 425, § 29.

54-01-03. State may acquire property by taxation.

The state may acquire property by taxation in the modes authorized by law.

54-01-04. State may acquire property by right of eminent domain.

The state may acquire or authorize others to acquire title to property, real or personal, for public use in the cases and in the modes provided by law.

54-01-05. State may acquire property by eminent domain for state institution.

The state, by the exercise of the right of eminent domain, may acquire, for the use of any state institution or state industry, any property necessary:

1. To the maintenance or expansion of such institution;
2. To the acquirement of any of the essentials of the existence of such institution or industry;
3. To the operation of such institution or industry;
4. To the health, safety, or support of any inmates of such institution; or
5. To the protection or care of the property of such institution or industry.

The proceedings for the acquirement of any such property must be prosecuted by the attorney general in the name of the state as plaintiff and must be governed by the provisions of chapter 32-15 applicable to condemnation proceedings.

54-01-05.1. State-owned land - How transferred.

Real property held in the name of the state of North Dakota for the use and benefit of any department or agency thereof may be transferred and conveyed by quitclaim deed executed in the name of the state of North Dakota by the governor and attested by the secretary of state.

54-01-05.2. Sale of state-owned land - Notice.

Except as provided by section 54-01-05.5, whenever any department or agency of the state other than the board of university and school lands, the housing finance agency, and the Bank of North Dakota is authorized to sell such real property, the property must be sold for cash by the county auditor or other person designated by the department or agency concerned at public

auction at the front door of the courthouse in the county in which the property lies. A notice of sale must have been published in the official newspaper of the county in which the property lies for three successive weeks, with the last publication not less than ten days before the day of sale. The notice must be given in the name of the administrative head of the department or agency concerned and must state the place, day, and hour of the sale, the description of the real property to be sold, the appraised value, and that the state reserves the right to reject any and all bids. No land may be sold at auction for less than the appraised value. In addition to the purchase price at auction, the buyer must pay the cost of preparing the land for sale. For a land sale or exchange when the value of the land is not more than one hundred thousand dollars, one appraisal must be obtained, and when the value of the land is in excess of one hundred thousand dollars, two appraisals must be obtained. If more than one appraisal is obtained, the appraised value of the land is the average of the two appraisals. If no bid is received on the land at public auction, the land may be sold for not less than ninety percent of the appraised value.

54-01-05.3. Attorney general to review bills providing for sale of land - Commissioner of university and school lands to render opinion on land use.

Repealed by S.L. 1981, ch. 516, § 4.

54-01-05.4. Impact analysis - Governor to require.

Repealed by S.L. 1981, ch. 515, § 1.

54-01-05.5. Bills authorizing sale or exchange of state-owned land - Written report - Assessment.

1. The supervising agency, board, commission, department, or institution owning or controlling land proposed by a bill introduced in the legislative assembly to be sold or exchanged shall prepare a written report that includes:
   a. An analysis of the type of land involved.
   b. A determination whether the land is needed for present or future uses of the agency, board, commission, department, or institution.
   c. A description of the party or parties, if known, who are interested in the land and the purposes for which the land is desired.
   d. A map showing the boundaries of the land proposed to be sold or exchanged and the purposes for which the adjacent lands are used.
2. The commissioner of university and school lands shall review each legislative bill proposing the sale or exchange of state-owned land and the written report from the supervising agency, board, commission, department, or institution. The commissioner may provide a written assessment to the standing committee of the legislative assembly to which the bill is initially referred concerning the proposed land sale or exchange and, in doing so, shall consider the "highest and best use" of the land as defined by section 15-02-05.1.
3. The commissioner may adopt rules to provide for administration of this section.

54-01-06. Jurisdiction over property in state - Limitations.

The sovereignty and jurisdiction of this state extend to all places within its boundaries as established by the constitution, but the extent of such jurisdiction over places that have been or may be ceded to, or purchased or condemned by, the United States, is qualified by the terms of such cession or the laws under which such purchase or condemnation has been or may be made.

54-01-07. Legislative consent to purchase of lands by United States - Jurisdiction.

Repealed by S.L. 1981, ch. 518, § 2.

54-01-08. Jurisdiction ceded to lands acquired by United States for military post.

Jurisdiction is ceded to the United States over any tract of land that may be acquired by the United States on which to establish a military post. Legal process, civil and criminal, of this

state, extends over all land acquired by the United States to establish a military post in any case in which exclusive jurisdiction is not vested in the United States, and in any case where the crime is not committed within the limits of such reservation.

54-01-09. Ceding to the United States exclusive jurisdiction over certain lands which are part of the Fort Lincoln military reservation.

Exclusive jurisdiction is ceded to the United States over the following tracts of land which were reserved from the public domain and set apart for military purposes as additions to the Fort Lincoln military reservation by executive orders of the President of the United States dated May 17, 1899, June 8, 1901, and January 17, 1907:

Lots two, three, and four, section ten, township one hundred thirty-seven north, range eighty west, and lots eleven and thirteen, section thirty-four, township one hundred thirty-eight north, range eighty west of the fifth principal meridian, situated in Burleigh County, and all accretions thereto.

Jurisdiction over the above-described lands is ceded upon the express condition that all civil process issued from the courts of this state, and such criminal process as may issue under the authority of this state against any person charged with crime committed within the jurisdiction of this state, may be served and executed thereon in the same manner and by the same officers as if this section had not been enacted.

54-01-09.1. State offenses - Concurrent jurisdiction ceded to the United States. (Contingent effective date - See note)

Concurrent jurisdiction is hereby ceded to the United States over offenses, as defined in section 12.1-01-04, when committed within boundaries of the tracts of land designated as:

1. Theodore Roosevelt national park.
2. Fort Union trading post national historic site.
3. Knife River Indian villages national historic site.

State offenses - Concurrent jurisdiction ceded to the United States. (Contingent effective date - See note) Concurrent jurisdiction is ceded to the United States over offenses, as defined in section 12.1-01-04, when committed within the boundaries of the tracts of land designated as:

1. Theodore Roosevelt national park.
2. Fort Union trading post national historic site.
3. Knife River Indian villages national historic site.
4. Fort Totten national historic site.

54-01-09.2. Concurrent jurisdiction - Vested upon acceptance.

The concurrent jurisdiction ceded by section 54-01-09.1 is vested upon acceptance by the United States by and through its appropriate officials and continues so long as the lands within the designated areas are dedicated to park or historic site purposes.

54-01-09.3. Retrocession of jurisdiction - Acceptance - Filing.

1. The consent of North Dakota is hereby given to the retrocession by the United States of the jurisdiction granted by section 54-01-09.1, either partially or wholly. A partial retrocession may be with respect to particular territory or particular offenses, or both. The governor is authorized to accept any such retrocession of jurisdiction on behalf of North Dakota.
2. When the governor receives written notification from the authorized official or agent of the United States that the United States desires or is willing to retrocede jurisdiction to North Dakota as provided in subsection 1, the governor may accept, and after filing the original acceptance with the secretary of state, the retrocession of jurisdiction will become effective.

54-01-09.4. United States military installations - Concurrent jurisdiction.

1. The state accepts the relinquishment of exclusive legislative jurisdiction from the United States in accordance with this section.
2. The state has concurrent legislative jurisdiction with the United States over any United States military installation under the control of the United States which is located within the boundaries of this state.
3. The concurrent legislative jurisdiction over a United States military installation under this section is effective upon the governor's written acceptance of a request filed by the principal officer, or other authorized representative who has supervision or control over the military installation under chapter 159 of United States Code title 10 [10 U.S.C. 2683], of the military installation where concurrent legislative jurisdiction is sought, relinquishing exclusive legislative jurisdiction and retaining concurrent legislative jurisdiction over the military installation.
4. The governor may not accept a request filed under subsection 3 unless the request:
   a. States the name, position, and authority of the individual requesting the cession;
   b. States the subject matter for the concurrent jurisdiction request;
   c. Describes by metes and bounds the United States military installation subject to the concurrent legislative jurisdiction request; and
   d. Indicates whether the request includes future contiguous expansions of land acquired for military purposes.
5. If the governor accepts a request filed under subsection 3:
   a. The governor's acceptance must state each element of the request which is accepted; and
   b. The governor shall submit the following documents to the secretary of state to index and submit copies to the individual who filed the request for concurrent legislative jurisdiction:
      (1) The request for concurrent legislative jurisdiction;
      (2) The governor's written acceptance of concurrent legislative jurisdiction; and
      (3) A description by metes and bounds of the United States military installation subject to the concurrent legislative jurisdiction.
6. The state may not incur or assume liability as a result of accepting concurrent legislative jurisdiction under this section.
7. After concurrent legislative jurisdiction is established under this section, a state agency or a political subdivision may enter a reciprocal agreement with a United States agency to designate duties related to the concurrent legislative jurisdiction between the parties.

54-01-10. State may accept military and Indian reservations.

The state of North Dakota may accept from the United States any military reservation or Indian school reservation, and all property connected with either, that the United States may cede or transfer to the state, subject to any conditions and requirements which Congress may impose.

54-01-10.1. Acceptance of Fraine Barracks.

The state of North Dakota hereby accepts from the United States of America the lands and improvements comprising the Bismarck Indian school plant, as authorized by Public Law 78-502, which must hereafter be known as "Fraine Barracks" in honor of the late Brigadier General John A. Fraine.

54-01-11. Who has charge of property ceded by United States to state.

When any military reservation or Indian school reservation is ceded to the state of North Dakota by the United States, the director of the office of management and budget shall take charge of and care for the property until otherwise provided by law. The governor shall receipt to the United States for any personal property transferred to the state.

54-01-12. Exchange of lands on Indian reservation between state and federal government.

The state of North Dakota, through its several departments and agencies, may exchange tracts and sections of land on Indian reservations within the state, belonging to the state of North Dakota, and not a part of the original grant of land to the state provided in the Enabling Act, for lands of like character and value belonging to the United States government on Indian reservations within this state. Such exchange is subject to the approval of the appropriate department of the federal government and the lands must be appraised in the manner provided by law. The state also may execute and deliver proper conveyances of such land in the manner and form provided by law, without the necessity of complying with any statute requiring notice of exchange or competitive bidding, and it may accept in return therefor a proper instrument of conveyance to the state of the lands for which such state lands are exchanged.

54-01-13. Exchange of lands on Fort Berthold reservation.

The state of North Dakota, through its several departments and agencies, is hereby authorized and empowered to exchange tracts, sections, and parcels of land located within the diminished borders of Fort Berthold reservation belonging to the state of North Dakota and not a part of the original grant of lands to the state provided for in the Enabling Act, for lands of like character and value belonging to the United States government located outside of the diminished borders of said Fort Berthold reservation. Such exchange is subject to the approval of the proper department of the federal government, and such lands must be appraised as provided by law in the case of sale of real property owned by the state. The state also may execute and deliver proper conveyances of such land in the manner and form provided by law, without the necessity of complying with any statute requiring the giving of notice of exchange or competitive bidding, and may accept in return therefor a proper instrument of conveyance to the state of North Dakota of the land for which such lands are exchanged.

54-01-13.1. Exchange of lands within Theodore Roosevelt National Park.

The state of North Dakota is hereby authorized to transfer and convey to the United States of America any lands situated within the Theodore Roosevelt National Park in the county of Billings, state of North Dakota, including state school lands and lands held by the state historical society or for the use and benefit of the state game and fish department, such transfer and conveyance to be made in exchange for federal lands of not less than equal value situated outside of the Theodore Roosevelt National Park.

54-01-13.2. Appraisal.

The lands to be conveyed to the United States of America and also the lands to be taken in exchange therefor, under section 54-01-13.1, must be appraised by the county auditor and the chairman of the board of county commissioners in the county in which the land is situated, at the land's fair market value, but state school lands may not be appraised and valued at less than ten dollars per acre [.40 hectare]. The county director of tax equalization shall serve as an assistant in making the appraisals.

54-01-13.3. Conveyance.

Conveyances made under section 54-01-13.1 to the United States of America of state school lands must be executed in the same form and manner as now provided by law for the sale and conveyance of state school lands and conveyance by the state of other lands under the provisions of section 54-01-13.1 must be executed on behalf of the state of North Dakota by the governor and attested by the secretary of state.

54-01-14. Lease of land to northern great plains dairy station - When to terminate.

The lease of all of section nine in township one hundred thirty-eight north, range eighty-one west of the fifth principal meridian in Morton County, North Dakota to the United States northern great plains dairy station for a term of ninety-nine years as provided by chapter 28 of the 1929 Session Laws, terminates if the land ceases to be used for experimental dairy uses and

purposes and if the lessee ceases to maintain its experimental dairy station as now located in Morton County, North Dakota.

54-01-15. Acquisition of national forest lands by United States - Jurisdiction of state over such lands.

The United States may, with the specific consent of the legislative assembly as to each tract acquired, acquire, by purchase, gift, or condemnation with adequate compensation, such lands in North Dakota as in the opinion of the federal government may be needed for the establishment of national forests. The state shall retain a concurrent jurisdiction with the United States in and over lands so acquired to the extent that civil process in all cases, and such criminal process as may issue under the authority of the state against any person charged with the commission of any crime without or within said jurisdiction, may be executed thereon in like manner as if this section had not been enacted. The legislative consent required by this section must be in the form of a duly enacted bill.

54-01-16. Power of Congress to make rules governing land acquired for national forests.

Power is conferred upon the Congress to pass such laws and to make or provide for the making of such rules and regulations, of both civil and criminal nature, and to provide punishment therefor, as in its judgment may be necessary for the administration, control, and protection of such lands as from time to time may be acquired by the United States under the provisions of section 54-01-15.

54-01-17. Right of way over state lands.

Repealed by S.L. 1995, ch. 435, § 2.

54-01-17.1. Granting easements to state-owned land - Procedure.

A state agency may, when it deems such action to be in the best interest of the state, grant easements upon or across any real property which it administers and which is owned by the state for the use or benefit of a state institution under its jurisdiction.

Any property rights transferred under the authority of this section must be transferred and conveyed by quitclaim instrument or easement executed in the name of the state of North Dakota by the governor and attested by the secretary of state. Such quitclaim instrument or easement must contain specific legal descriptions of the property right transferred and the location thereof.

Upon the granting of an easement under the authority of this section any proceeds must be used in the following manner:

1. If the property is the subject of a devise, legacy, bequest, or gift to the institution the proceeds of the easement are subject to the provisions of sections 1-08-02 and 1-08-04.
2. If the property is not subject to sections 1-08-02 and 1-08-04, the proceeds of the easement must be deposited in the special operating fund of the institution or, if no such operating fund then exists, such proceeds must be deposited in the general fund in the state treasury.

54-01-17.2. North Dakota-Saskatchewan-Manitoba boundary advisory committee.

Repealed by S.L. 1995, ch. 489, § 1.

54-01-18. All persons within the state subject to its jurisdiction and entitled to protection.

Every person while within this state is subject to its jurisdiction and entitled to its protection.

54-01-19. Rights of state over persons enumerated.

The state has the following rights over persons within its limits, to be exercised in the cases and in the manner provided by law:

1. To punish for crime.
2. To imprison or confine for the protection of the public peace or health or of individual life or safety.
3. To imprison or confine for the purpose of enforcing civil remedies.
4. To establish custody and restraint for the persons of unsound mind dangerous to themselves or society.
5. To establish custody and restraint of paupers for the purpose of their maintenance.
6. To establish custody and restraint of minors unprovided for by natural guardians for the purpose of their education, reformation, and maintenance.
7. To require services of persons, with or without compensation, as follows:
   a. In military duty;
   b. In jury duty;
   c. As witnesses;
   d. As township officers;
   e. In highway labor;
   f. In maintaining the public peace;
   g. In enforcing the service of process;
   h. In protecting life and property from fire, pestilence, wreck, or flood; and
   i. In such other cases as are provided by law.

54-01-20. The people defined.

The people, as a political body, consist of:

1. Citizens who are electors; and
2. Citizens not electors.

54-01-21. Citizens defined.

The citizens of the state are all persons who are citizens of the United States of America and who are bona fide residents of the state of North Dakota.

54-01-22. Persons not citizens.

Persons in this state who are not its citizens are either:

1. Citizens of other states; or
2. Aliens.

54-01-23. Duty of citizens - Allegiance defined - How renounced.

Allegiance is the obligation of fidelity and obedience which every citizen owes to the state. Allegiance may be renounced by a change of residence.

54-01-24. Rights and duties of citizens not electors.

An elector has no rights or duties beyond those of a citizen not an elector, except the right and duty of holding and electing to office.

54-01-25. Rights and duties of citizens of other states.

A citizen of the United States who is not a citizen of this state has the same rights and duties as a citizen of this state who is not an elector.

54-01-26. Residence - Rules for determining.

Every person has in law a residence. In determining the place of residence, the following rules must be observed:

1. It is the place where one remains when not called elsewhere for labor or other special or temporary purpose and to which the person returns in seasons of repose.
2. There can be only one residence.
3. A residence cannot be lost until another is gained.

4. The residence of the supporting parent during the supporting parent's life, and after the supporting parent's death, the residence of the other parent is the residence of the unmarried minor children.
5. An individual's residence does not automatically change upon marriage, but changes in accordance with subsection 7. The residence of either party to a marriage is not presumptive evidence of the other party's residence.
6. The residence of an unmarried minor who has a parent living cannot be changed by either that minor's own act or that of that minor's guardian.
7. The residence can be changed only by the union of act and intent.

54-01-27. Lease of state-owned property.

Notwithstanding any other provision of law, the state, or any agency or institution of the state, may enter agreements to lease all or part of, or an undivided or other interest in, any real or personal property belonging to the state, or any agency or institution of the state, to and, or, from any agency or institution of the state or any person for such compensation and upon such terms and conditions as the parties under such agreement may stipulate. Such agreements must be authorized by the board, if any, or commissioner or other executive officer of the commission, agency, or institution holding, controlling, possessing, or owning the property or on whose behalf the property is held. For purposes of this section, the agreements include any lease, sublease, purchase agreement, lease-purchase agreement, installment purchase agreement, leaseback agreement, or other contract, agreement, instrument, or arrangement pursuant to which any rights, interests, or other property are transferred to, by, or from any party to, by, or from one or more parties, and any related documents entered or to be entered, including any operating agreement, service agreement, indemnity agreement, participation agreement, loan agreement, or payment undertaking agreement entered as part of a long-term lease and leaseback transaction. A lease obligation under this section may not exceed a term of ninety-nine years. A lease obligation entered into under this section is payable solely from revenues to be derived by the state, or any agency or institution of the state, from the ownership, sale, lease, disposition, and operation of the property; any funds or investments permitted under state law, and any earnings thereon, to the extent pledged therefor; revenues to be derived by the state, or any agency or institution of the state, from any support and operating agreement, service agreement, or any other agreement relating to the property; funds, if any, appropriated annually by the legislative assembly or received from federal sources; and income or proceeds from any collateral pledged or provided therefor. A lease obligation under this section does not constitute an indebtedness of the state, or any agency or institution of the state, or a pledge of the full faith and credit or unlimited taxing resources of the state, or any agency or institution of the state. Notwithstanding any other law, the state, or any agency or institution of the state, may solicit and accept one or more proposals for a lease transaction, including the arrangement thereof, under this section, and accept any proposal that is determined to be in the public interest. The public finance authority, on behalf of the state, or any agency or institution of the state, may do and perform any acts and things authorized by this section, including making, entering, and enforcing all contracts or agreements necessary, convenient, or desirable for the purposes of this section.

54-01-28. Northern plains national heritage area - Use of state funds and property prohibited unless approved by legislative assembly.

State funds may not be expended or transferred from state agencies to match federal moneys for the northern plains national heritage area or any similar or successor designated areas without the approval of the legislative assembly. State lands, water, property, or facilities may not be included in the designated northern plains national heritage area or any similar or successor designated areas without the approval of the legislative assembly. No further lands, water, property, or facilities may be designated as heritage areas within this state without the approval of the legislative assembly.

54-01-29. Prohibition on the purchase of certain real property and easements with public funds.

A governmental entity may not provide funds through grant, contract, or other agreement to a nongovernmental entity that is a nonprofit organization for the purpose of holding any interest in real property or an easement for wildlife or conservation purposes. This section does not apply to a governmental entity in a partnership with a nongovernmental entity, if the governmental entity derives a benefit from the partnership. In addition, the recipient of these funds is subject to civil action by any person for the return of any public funds used by the recipient for any of the same purposes.

54-01-29.1. Federal legislation encouraged to return lands and mineral rights to the state of North Dakota.

Uplands of the Oahe Reservoir in Emmons and Morton Counties in North Dakota above the elevation of 1,620 feet [493.78 meters] are defined as excess lands to the operation of the Oahe Dam. The North Dakota legislative assembly encourages Congress to pass federal legislation to return those lands and mineral rights to the state of North Dakota and the North Dakota legislative assembly encourages the governor of North Dakota to work with the North Dakota congressional delegation and Congress to secure enactment of necessary federal legislation.