CHAPTER 54-06
GENERAL PROVISIONS

54-06-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Appointed or appointive state officers and members of appointive state boards, bureaus, and commissions, and deputies, assistants, secretaries, clerks, and employees" includes all persons whose office or employment is held by virtue of any appointment or employment however made, other than an election by the voters of the state, whether or not such office or employment is created by an act of the legislative assembly.
2. "Elected and elective state officers" includes the governor, the lieutenant governor, the attorney general, the secretary of state, the state auditor, the state treasurer, the superintendent of public instruction, the agriculture commissioner, the insurance commissioner, the tax commissioner, and three public service commissioners.

54-06-02. State officers reside at capital.

Repealed by S.L. 1993, ch. 506, § 1.

54-06-03. Report of state officers and boards.

Except as otherwise provided by law, all officers, departments, boards, commissions, and state institutions that make and transmit reports annually or biennially to the governor and the secretary of state shall submit their reports to the governor and the secretary of state not later than December first of the year in which the report is required to be made.

54-06-04. Form and number of reports to be submitted.

1. The following executive and administrative officers and departments shall submit to the governor and the secretary of state reports covering their operations for the two preceding fiscal years, except as otherwise provided by law, not later than the first day of December each year after the regular session of the legislative assembly:
   a. Secretary of state.
   b. State auditor.
   c. Insurance commissioner.
   d. Attorney general.
   e. Agriculture commissioner.
   f. Superintendent of public instruction.
   g. State tax commissioner.
   h. Public service commission.
   i. Department of corrections and rehabilitation.
   j. Department of transportation.
   k. Department of health and human services.
   l. Office of management and budget.
   m. State treasurer.
   n. Labor commissioner.
   o. Department of financial institutions.
   p. Game and fish department.
   q. Industrial commission.
   r. Job service North Dakota.
   s. Board of university and school lands.
   t. Department of environmental quality.
2. A committee composed of the director of the state historical society, the state librarian, and the secretary of state, or other persons designated to represent them, shall meet at the call of the secretary of state to set the requirements for form, style, materials, and content of biennial reports.

3. This section does not prohibit the executive and administrative officers and departments enumerated in subsection 1 from receiving additional copies of their reports as may be available and printed.
4. All officers, departments, boards, commissions, and state institutions that submit reports covering their operations for the two preceding fiscal years to the governor and the secretary of state shall submit copies of their reports in the form and style, using the materials, and having the content prescribed under subsection 2 on or before the first day of December in each year after the regular session of the legislative assembly. If submitted, one copy of each report must be also distributed to the following agencies:
   a. Legislative council.
   b. Office of management and budget.
   c. State law library.
   d. The libraries of each state institution of higher education.
   e. State archivist for official and public use.
5. All executive and administrative officers and departments that submit reports under this section shall bear the costs of the preparation and any printing of the reports.
6. All reports required under this section to be submitted to the secretary of state must be subsequently transmitted by the secretary of state to the state archivist for official and public use following their receipt and review by the secretary of state.
7. In lieu of printed biennial reports, an agency identified in subsection 1, may post the materials and contents determined under subsection 2 on the agency website not later than the date specified under subsection 1 and retain the materials on its website until the subsequent biennial report is posted to the agency website or biennial reports are printed and delivered under this section. An agency that elects to post the biennial report information on the agency's website shall transmit in electronic form the contents to the state archivist in the manner and format determined by the director of the state historical society.

54-06-04.1. State agencies, departments, and institutions charging fees shall make reports.

All state agencies, departments, and institutions which license, inspect, or regulate private business activities or products and charge fees for such services, except the secretary of state, shall prepare and submit to the office of the budget, with the budget estimates required by section 54-44.1-04, a report for the last two fiscal years giving information about the costs of providing each service and the fees charged for the granting or providing of such service. The report must accurately present the costs and revenues in accordance with the various categories of service and such report must be completed and supported by such accounting records and allocation procedures as are acceptable to the director of the budget.

54-06-04.2. Information to employees on state employee health and retirement and social security benefit program contributions and premiums paid by the state.

A report providing a summary of payments made by the state for premiums and contributions for state employee insurance, retirement, and federal social security benefit programs for each state employee must be provided to each employee every calendar year. The report must be in a form adopted by those state agencies and institutions responsible for preparing state employee payrolls. The information provided must include any portion of required employee retirement program contributions paid by the state on behalf of the employee and must include the accumulated state payments for these benefit programs for the current calendar year.

54-06-04.3. Joint publication and distribution of information by state agencies - Fees.

Any state agency may cooperate with any other state agency to jointly publish and distribute information and may arrange to have the joint publication or distribution, or both, coordinated by a private entity. Any state agency may provide information it has collected or developed,

including mailing lists, to each other or to any private entity for the purpose of distributing jointly or individually issued publications or other information. If a state agency publication is available on the agency's website or otherwise available in an electronic format and a person requests a paper copy of the publication, the state agency may charge a reasonable fee for providing the paper copy and for mailing the paper copy of the publication.

54-06-05. Office of management and budget may condense report - Number of copies of report.

Repealed by S.L. 1995, ch. 350, § 56.

54-06-06. Salaries of state officers and employees - Periodic payment.

Unless otherwise provided by law, the office of management and budget shall prepare warrants for the salaries of state officers and employees not less frequently than monthly as the same become due.

54-06-07. Salaries full compensation - Fees paid over to state treasurer.

All salaries of elective and appointive state officers shall be full compensation for all official services. All fees, which are not otherwise by the laws of this state directed to be deposited in a special fund or disbursed for a special purpose, received or charged by any elective or appointive officer or deputy state officer for any act or service rendered in the officer's official capacity must be accounted for and paid over by the officer monthly to the state treasurer and must be credited to the general fund of the state.

54-06-08. Record of fees kept by state officers - Report to state treasurer.

Every state officer or deputy state officer required by the Constitution of North Dakota, or by any provision of the laws of this state, to pay into the state treasury all fees and profits arising from such office, shall keep a record of all such fees or profits in a book kept for that purpose. Such book is the property of the state. Each officer shall report to the state treasurer monthly the amount of fees or profits received, verified by oath, and at the same time shall pay the amount of such fees or profits to the treasurer, taking duplicate receipts therefor. One of the receipts must be filed with the office of management and budget forthwith. The office of management and budget shall charge the state treasurer with the amount thereof.

54-06-08.1. Clearing accounts and cash balances maintained by state agencies.

All departments, institutions, or agencies of the state may maintain, subject to approval of the state auditor and the state treasurer, in the Bank of North Dakota, or, if the state entity is located outside Bismarck, in another state or federally chartered financial institution, an account for clearing or cashing of checks and making change. To accommodate peak processing periods, the balance in an account at a financial institution other than the Bank of North Dakota may exceed the maximum amount of federal insurance coverage available if the excess in the account is secured by another form of security or security deposit; however, the balance may exceed the maximum amount of federal insurance coverage available only for the time it takes to clear the checks. Any check written on the account may be used only to transfer funds to the Bank of North Dakota or the state treasurer. A financial institution shall report to the state auditor in writing within thirty days after opening or closing an account for a state entity under this section. Subject to the approval of the state auditor, a state entity may maintain a cash balance reasonable for the conduct of business at the location of the entity.

54-06-08.2. Payment by credit or debit card or by electronic fund transfer - State credit card processor - Fees.

1. A state agency, board, or commission, the judicial branch, or any political subdivision may accept payment by credit or debit card or by electronic fund transfer of any fee, interest, penalty, tax, or other payment that is due or collectible by the agency, board, or commission. The judicial branch may accept payment by credit or debit card or by

electronic fund transfer for any fees, costs, or other assessments required or imposed under state law or court rule.

2. The Bank of North Dakota is the state credit card administrator for credit card transactions of state agencies, boards, or commissions. The Bank of North Dakota shall select a credit card processor or processors to provide credit card services to state agencies, boards, and commissions. All funds from credit card transactions must be deposited in the respective entity's account in the Bank of North Dakota.
3. Except as otherwise provided under section 20.1-03-32, an executive branch agency may charge a fee to be added to a payment as a service charge for the acceptance of a payment made by a credit or debit card or an electronic fund transfer. The Bank of North Dakota shall adopt rules establishing the terms under which executive agencies may charge a service fee under this subsection to be in compliance with a credit card company's rules and shall approve the amount that may be charged by an executive agency.
4. The judicial branch may charge a reasonable fee not exceeding the discount charged by the credit or debit card issuer. The fee may be added to a payment as a service charge for the acceptance of a payment made by a credit or debit card. The state court administrator shall determine which nationally recognized cards will be accepted for payments made to the judicial branch under this section.

54-06-09. Mileage and travel expense of state officers and employees.

1. State officials, whether elective or appointive, and their deputies, assistants, and clerks, or other state employees, entitled by law to be reimbursed for mileage or travel expense, must be allowed and paid for mileage and travel expense.
   a. For each mile [1.61 kilometers] actually and necessarily traveled in the performance of official duty when the travel is by private airplane, the individual is entitled to a sum equal to one and one-half times the mileage reimbursement amount established under subdivision c for travel by motor vehicle. Mileage by private aircraft must be computed by actual air mileage when only one state employee or official is traveling; if two or more state employees or officials are traveling by private aircraft, the actual mileage must be based on the road mileage between the geographical points. Reimbursement for private airplane travel must be calculated as follows:
      (1) If reimbursement is for one properly authorized and reimbursable passenger, reimbursement must be paid on a per mile basis as provided in this subsection.
      (2) If reimbursement is claimed for a chartered private aircraft, reimbursement may not exceed the cost of regular coach fare on a commercial flight, if one is scheduled between the point of departure, point of destination, and return, for each properly authorized and reimbursable passenger on the charter flight; or, where there is no such regularly scheduled commercial flight, the actual cost of the charter.
   b. Except as provided in subdivision a, when travel is by rail or certificated air taxi commercial operator or other common carrier, including regularly scheduled flights by airlines, the individual is entitled to reimbursement for the amount actually and necessarily expended therefor in the performance of official duties.
   c. The director of the office of management and budget shall adopt policies establishing mileage reimbursement for actual and necessary travel in the performance of official duty when the travel is by motor vehicle, the use of which is required by the employing entity. The director shall amend the policies when necessary to set reimbursement at the same rate as established by the United States general services administration for privately owned vehicles.
2. No reimbursement may be paid for leased private aircraft, except for leased or rented private aircraft from a recognized fixed base aviation operator who is in the business of leasing and renting private aircraft and is located on an airport open for public use.

3. If only one person engages in such travel in a motor vehicle exceeding at any geographical point three hundred miles [482.80 kilometers] beyond the borders of this state, reimbursement is limited to eighteen cents per mile [1.61 kilometers] for miles driven in excess of six hundred miles [965.60 kilometers] of round trip out-of-state travel.
4. An official, deputy, assistant, clerk, or other employee, when required to travel by motor vehicle or truck in the performance of official duty, shall use a state-owned vehicle whenever possible unless exempted under section 24-02-03.3. However, an agency, institution, department, board, bureau, or commission may allow use of an official's, deputy's, or employee's personal motor vehicle in circumstances authorized by the official, deputy, or the employee's supervisor. If personal motor vehicle use is authorized under this subsection, the agency may also allow mileage reimbursement at a rate less than that otherwise provided in this section. When official travel is by motor vehicle or airplane owned by the state or by any department or political subdivision of the state, no allowance may be made or paid for such mileage, except that governmental entities may share expenses when officials or employees of those entities travel in the same motor vehicle or aircraft.
5. Notwithstanding the other provisions of this section, state employees permanently located outside the state or on assignments outside the state for an indefinite period of time, exceeding at least thirty consecutive days, must be allowed and paid the United States general services administration mileage rate per mile [1.61 kilometers] for each mile [1.61 kilometers] actually and necessarily traveled in the performance of official duty when such travel is by motor vehicle, and the three-hundred-mile [482.80-kilometer] restriction imposed by subsection 3 does not apply.
6. Before any allowance for any such mileage or travel expenses may be made, the official, deputy, assistant, clerk, or other employee shall file with the employee's department, institution, board, commission, or agency an itemized statement showing the mileage traveled, the hour of departure and return, the days when and how traveled, the purpose thereof, and such other information and documentation as may be prescribed by rule of the employee's department, institution, board, commission, or agency. The statement must be submitted to the employee's department, institution, board, commission, or agency for approval and must be paid only when approved by the employee's department, institution, board, commission, or agency.

54-06-09.1. Certification of unlawful expense and traveling account - Penalty - Action for violation.

Repealed by S.L. 1975, ch. 106, § 673.

54-06-10. Out-of-state travel - Authorization necessary.

Repealed by S.L. 1993, ch. 508, § 1.

54-06-11. Amounts of bonds of state officers.

Repealed by S.L. 1999, ch. 113, § 24.

54-06-12. Publishing false statements - Penalty.

No state official may publish willfully any false statement in regard to any state department, institution, or industry which tends to deceive the public and create a distrust of any state official or employee in charge of such department, institution, or industry, or which tends to obstruct, hinder, and delay the various departments, institutions, and industries of the state. Any person violating the provisions of this section is guilty of a class C felony.

54-06-13. Salary limitations suspended.

Repealed by omission from this code.

54-06-14. Annual leave and sick leave for state employees.

1. a. Annual leave and sick leave must be provided for all individuals in the permanent employment of this state who are not employed under a written contract of hire setting forth the terms and conditions of their employment, within the limitations, terms, and provisions of this section.
   b. A state agency, unit, or entity that employs an individual subject to this section shall, upon hire, grant the individual forty hours of new hire leave to use within the first year of employment. Any new hire leave remaining after completion of the first year of employment is eliminated. New hire leave is not earned paid time off and is not paid out upon separation of employment.
   c. Annual leave for an employee entitled to it must be within a range of a minimum of one working day per month of employment to a maximum of two working days per month of employment, based on tenure of employment, to be fixed by rules adopted by the employing unit. The employing unit may grant, at hire, annual leave within the parameters of one to two working days per month, which may exceed the amount based on tenure of employment, if the position being hired for was previously identified as a hard-to-fill occupation under subsection 5 of section 54-06-31 and the agency has satisfied the requirements under subsection 1 of section 54-06-31. Sick leave for an employee entitled to it must be within a range of a minimum of one working day per month of employment to a maximum of one and one-half working days per month of employment, based on tenure of employment, to be fixed by rules adopted by the employing unit.
   d. Annual leave must be compensated for on the basis of full pay for the number of working days' leave credited to the employee. Sick leave must be compensated for on the basis of full pay for absence due to illness on working days during tenure of employment. An employee with at least ten continuous years of state employment is entitled to a lump sum payment equal to one-tenth of the pay attributed to the employee's unused sick leave accrued under this section. An employee's years of state employment must be deemed continuous if, under the official personnel policy of an agency, unit, or entity, the employee's work is terminated because of a reduction in force and the employee is reinstated in any agency, unit, or entity within two years, or if the employee is placed on voluntary leave status without pay and the leave lasts no longer than two years for education purposes, or one year for any other voluntary leave without pay. The pay attributed to the accumulated, unused sick leave must be computed on the basis of the employee's salary or wage at the time the employee leaves the employ of the state and at the rate of one hour of pay for each hour of unused sick leave. The agency, unit, or entity that last employed the employee shall make the lump sum payment from funds appropriated by the legislative assembly to that agency, unit, or entity for salaries and wages.
2. A state agency, unit, or entity that employs an individual subject to this section shall formulate and adopt rules governing the granting of annual leave and sick leave which will effectuate the purpose of this section and best suit the factors of employment of that employing unit. Each employing unit shall file with the office of management and budget a copy of the rules adopted, including any amendments or additions to the rules.

54-06-14.1. State leave sharing program.

Repealed by S.L. 2021, ch. 394, § 3.

54-06-14.2. State sick leave sharing program.

Repealed by S.L. 2021, ch. 394, § 3.

54-06-14.3. Disaster services, emergency medical services, and firefighter volunteers - Leave.

1. Upon issuance of an order or proclamation declaring a state of disaster or emergency pursuant to chapter 37-17.1, or a declaration of at least a level II disaster by the American red cross in this or any other state, the executive officer in charge of a state agency may grant a leave of absence to any full-time employee of that agency who is certified by the American red cross as a disaster services volunteer. The leave of absence must be for the purpose of allowing that employee, upon request by the American red cross, to participate in disaster relief services.
2. The executive officer in charge of a state agency may grant a paid leave of absence to a full-time employee of that agency who is an emergency medical services personnel volunteer or volunteer firefighter. The leave of absence must be for the purpose of allowing that employee to respond to an emergency at the request of an emergency medical services operation or fire department.
3. An individual on leave under this section is not deemed to be an employee of the state for the purposes of workforce safety and insurance. The cumulative leave granted under this section may not exceed five working days during any calendar year. The leave may not result in a loss of compensation, seniority, annual leave, sick leave, or accrued overtime for which the employee is otherwise eligible.

54-06-14.4. State employee leave for organ or bone marrow donation.

The executive officer in charge of a state agency may grant a leave of absence, not to exceed twenty workdays, to an employee for the purpose of donating an organ or bone marrow. Notwithstanding the limitations for the donation and use of donated leave under section 54-06-14.7, an employee may request and use donated annual leave or sick leave for the purpose of donating an organ or bone marrow. If an employee requests donations of sick leave or annual leave, but does not receive the full amount needed for the donation of an organ or bone marrow, the executive officer of the state agency may grant a paid leave of absence for the remainder of the leave up to the maximum total of twenty workdays. The executive officer of the state agency may require verification by a physician regarding the purpose of the leave requested and information from the physician regarding the length of the leave requested. Any paid leave of absence granted under this section may not result in a loss of compensation, seniority, annual leave, sick leave, or accrued overtime for which the employee is otherwise eligible.

54-06-14.5. Use of sick leave and annual leave - Birth or adoption - Family leave priority.

1. During the first six months following birth or placement, an employer shall grant an employee's request to use up to six weeks of sick leave under section 54-06-14 to care for the employee's newborn child or to care for a child placed with the employee, by a child-placing agency licensed under chapter 50-12, for adoption or placed with the employee as a precondition to adoption under section 14-15-12, but not both. The employer shall compensate the employee for leave used by the employee under this subsection on the same basis as the employee would be compensated if the leave had been taken due to the employee's illness, medical needs, or health needs. This subsection does not prevent an employee from using sick leave for the employee's illness, medical needs, or health needs following the birth of a child or from using leave under section 54-52.4-03.
2. If an employee requests to use annual leave under section 54-06-14 for any of the reasons identified under subsection 1 of section 54-52.4-02, the employer shall give priority to the request.

54-06-14.6. Sick leave for consequences of domestic violence, a sex offense, stalking, or terrorizing.

1. As used in this section:

a. "Domestic violence" has the same meaning as provided under section 14-07.1-01.
b. "Immediate family member" means a spouse, parent, child, or sibling as provided under section 12.1-17-07.1.
c. "Sex offense" means an offense under chapter 12.1-20.
d. "Stalking" means an offense under section 12.1-17-07.1.
e. "Terrorizing" means an offense under section 12.1-17-04.

2. Under section 54-06-14, an employing unit shall grant an employee's request to use sick leave to:
   a. Seek legal or law enforcement assistance or remedies to ensure the health and safety of the employee or employee's immediate family members, including preparing for or participating in any civil or criminal legal proceeding related to or derived from domestic violence, a sex offense, stalking, or terrorizing;
   b. Seek treatment by a health care provider for physical or mental injuries caused by domestic violence, a sex offense, stalking, or terrorizing, or to attend to health care treatment for a victim of such offenses who is the employee's immediate family member;
   c. Obtain or assist an immediate family member in obtaining services from a domestic violence shelter, rape crisis center, or other social services program for relief from domestic violence, a sex offense, stalking, or terrorizing;
   d. Obtain or assist an immediate family member in obtaining mental health counseling related to an incident of domestic violence, sex offense, stalking, or terrorizing, in which the employee or the employee's immediate family member was a victim of domestic violence, a sex offense, stalking, or terrorizing; or
   e. Participate in safety planning, temporary or permanent relocation, or take other actions to increase the safety of the employee or employee's family members from future domestic violence, a sex offense, stalking, or terrorizing.
   f. In the discretion of the employee's supervisor, the sick leave hours may be limited to forty hours per calendar year.

54-06-14.7. State leave sharing program - Rulemaking. (Retroactive application - See note)

1. The human resource management services division of the office of management and budget shall establish a state leave sharing program for permanent employees of the state. The program must provide for a mechanism for state employees to donate accrued annual and sick leave to an employee who does not have available leave who is suffering from a severe, extreme, or life-threatening condition, or who is caring for an immediate relative or household member who is suffering from a severe, extreme, or life-threatening condition.
2. A temporary employee or contracted employee with a limited-term appointment is not eligible to participate in the leave sharing program. An employee may not use more than four months donated leave in any twelve-month period and an employee may not retain leave beyond the occurrence necessitating the leave.
3. The human resource management services division shall:
   a. Require medical certification from a physician, physician assistant, psychologist, or advanced practice nurse practitioner verifying the medical condition and the expected duration of the condition;
   b. Track the amount of leave taken by permanent state employees under the program; and
   c. Adopt rules in accordance with chapter 28-32 to implement this section.

54-06-15. Failure of officials and employees working in capitol building to return keys upon termination of employment - Duty of person in charge of employing unit - Payment of fee in lieu of return - Retention of final warrant for salary or wage.

Each elective or appointive official or state employee employed by, or in charge of, an employing unit with offices in the state capitol building who fails or is unable to return a key, or

keys, issued to that person pursuant to section 54-21-17.1 shall have that person's final warrant-check for payment of salary or wages retained by the person in charge of the employing unit, or the person's designee, until the key or keys are returned, or until the fee in lieu of return provided in this section has been paid. Each official or employee who fails or is unable to return keys issued to the person in the manner provided in section 44-08-18 shall pay a fee of five dollars for each key not returned, which fee must be in lieu of return of a key. Upon receipt of the in lieu fee, the person in charge of the employing unit, or the person's designee, shall release the official's or employee's final warrant-check for payment of salary or wages. When an official or employee terminates that person's employment and fails or is unable to return a key, or keys, issued to that person, the person in charge of the employing unit, or the person's designee, shall retain the final warrant-check for payment of the salary or wages of that official or employee until this section has been complied with. As used in this section, the phrase "employing unit" means any agency, department, board, commission, or other governmental unit, including the supreme court, the legislative assembly, and the legislative council, which has offices located in the state capitol building. The phrase "person in charge" means the person who has the overall supervisory and administrative control over the employing unit.

54-06-16. Minimum wage standards for employees of state.

Repealed by S.L. 2003, ch. 388, § 5.

54-06-17. Certain rental-purchase-type agreements authorized.

With the approval of the office of management and budget, any department, agency, or institution of the state currently leasing or renting office equipment under an agreement that is convertible to a rental-purchase or similar agreement, upon certification to the office of management and budget that conversion of such leasing or rental agreement to a rental-purchase or similar agreement is to the financial advantage of the state and does not commit the state to payments thereon beyond the biennium for which funds are available, may convert such rental or leasing agreement to such rental-purchase-type agreement.

54-06-18. Director to authorize postage meters.

A state agency, department, or institution, except the institutions under the control and management of the board of higher education, may not obtain or use a postage meter unless authorized to do so by the director of the office of management and budget. Each state agency, department, or institution which is authorized by the director to obtain or use a postage meter shall maintain such records as the director may require and shall allow the director to inspect such records upon request. The office of management and budget shall keep a record of the identification numbers of all postage meters authorized for usage.

54-06-19. Appointive boards, commissions, committees, and councils - Gender balance.

Appointments to boards, commissions, committees, and councils of the state established by this code, if not otherwise provided by law, should be gender balanced to the extent possible and to the extent that appointees are qualified to serve on those boards, commissions, committees, and councils. Any appointment in accordance with this section should be made in a manner that strives to seek gender balance based on the numbers of each gender belonging to the group from which appointments are made. Ex officio members are not to be included in determining gender balance under this section.

54-06-20. Indigent civil legal services fund - Distribution - Continuing appropriation - Records.

1. An advisory committee consisting of the lieutenant governor, the director of the office of management and budget or the director's designee, and the state court administrator shall distribute moneys deposited in the indigent civil legal services fund. Qualified legal service programs may apply for moneys in the fund. The moneys in the fund must be distributed to legal service programs operating in the state which

provide, with funds appropriated by the federal legal services corporation, legal services to persons unable to afford private counsel. Allocation of funds among the programs must be based on the population served by each program, the range of legal services offered, alternative sources of funding, and other factors deemed relevant by the advisory committee. The moneys deposited in the indigent civil legal services fund in the state treasury are hereby appropriated to the advisory committee on a continuing basis for the purpose of implementing and administering a program to provide civil legal assistance to indigent individuals.

2. Recipients of funds distributed by the advisory committee shall comply with the federal Legal Services Corporation Act [42 U.S.C. 2996 et seq.].
3. Subject to the limitations in this section, funds distributed under subsection 1 may be used to provide legal services to persons unable to afford private counsel in the following types of cases:
   a. Public benefits, including temporary assistance to needy families, unemployment compensation, general assistance, the supplemental nutrition assistance program, supplemental security income, or social security disability income;
   b. Medical assistance;
   c. Family law matters;
   d. Housing;
   e. Consumer issues; and
   f. Elder law.
4. The advisory committee and each recipient of funds from the indigent civil legal services fund shall maintain records in accord with the generally accepted accounting principles. The records must account for the receipt and expenditure of all funds distributed and received and must be maintained for a period of five years from the close of the fiscal year in which the funds are distributed or received or until audited, whichever is sooner.

54-06-21. Public employee personnel records - Administration - Access.

The official personnel file on each employee is the file maintained under the supervision of the agency head or the agency head's designated representative.

1. No documents that address an employee's character or performance may be placed in the file unless the employee has had the opportunity to read the material. The employee must acknowledge that the employee has read the material by signing the actual copy to be filed or an attachment to the actual copy to be filed, with the understanding that the signature merely signifies that the employee has read the material to be filed and does not necessarily indicate agreement with its content. If the employee refuses to sign the copy to be filed, the agency head or the agency head's designated representative shall indicate on the copy that the employee was shown the material, was requested to sign the material to verify that the material had been read, and that the employee refused to sign the copy to be filed. In the presence of the employee and a witness, the agency head or the agency head's designated representative shall sign and date a statement verifying the refusal of the employee to sign the copy to be filed. The material must then be placed in the file.
2. The employee has the right to answer any material filed and any answer must be attached to the file copy. The employee's answer to material filed may not be used as the basis for any subsequent adverse personnel action. If any material is found to be without merit or unfounded through an established grievance procedure, it must be immediately removed from the file and may not be used in any subsequent actions or proceedings against the employee.
3. The employee or the employee's designated representative must be permitted to examine the employee's official personnel file by appointment during normal business hours.
4. No anonymous letters or materials may be placed in the employee's file.
5. The employee must be permitted to reproduce at the employee's expense any material in the employee's file.

6. An employee may file a grievance regarding nonevaluation material placed in the employee's personnel file. A grievance is limited to an internal agency grievance unless such material is merged into a disciplinary proceeding.
7. This section does not prohibit administrators from maintaining written notes or records of an employee's performance separate from the personnel file for the purpose of preparing evaluations or possible disciplinary action.
8. Administrators are encouraged to place in the employee's file information of a positive nature, including any such material received from outside competent and responsible sources, indicating special competencies, achievements, performances, or contributions of a professional or civic nature.

Except when the employing agency inserts only salary, insurance, medical, tax, workforce safety and insurance, pretax benefits, or deferred compensation information or employment forms, a record of access must be maintained by the employing agency and must be provided to the employee when the employee examines the employee's file. As used in this section, the term "public employee" means any person employed by the state and does not include persons employed by any political subdivision of the state.

54-06-22. Crime victims' account - Administration.

The agency designated by the governor to administer the victims' assistance grants under the federal Victims of Crime Act of 1984 [42 U.S.C. 10601 et seq.] shall administer a crime victims' account in the state treasury. The moneys in the account must be distributed through grants to the crime victims' compensation program; private, nonprofit domestic violence or sexual assault programs; and to victim and witness advocacy programs whose primary function is to provide direct services to victims of and witnesses to crimes. The administering agency shall establish procedures for the distribution of grants.

54-06-23. Child care services provided by state agency or institution.

A state agency or institution may provide for child care services to the children of employees, students, or clients of the agency or institution in accordance with this section. Child care services may be provided by the institution only after the head of the agency or institution determines there is a need for the services and that the services will be provided at rates that are not less than the average rates charged by private child care providers providing comparable services in the community. Child care services may be provided in space available within the facility housing the agency or institution. An agency or institution may operate a child care center in available space or contract with a child care provider for child care services. Within the limits of legislative appropriations, the agency or institution may provide utilities and custodial and maintenance services for the child care center. Additional operating costs, including the salaries for a director and staff and the cost of supplies, must be borne by the center. A child care center provided for by an agency or institution may provide child care services to the children of employees, students, or clients of the agency or institution and, to the extent space is available, to any other children.

54-06-24. State employee suggestion incentive program.

Expired under S.L. 2019, ch. 40, § 31.

54-06-24.1. Telecommuting incentive program for state employees.

Expired under S.L. 2001, ch. 474, § 2.

54-06-25. State employees compensation commission - Appointment of members.

Repealed by S.L. 2021, ch. 15, § 39.

54-06-26. Use of state telephones by state officials and employees.

Notwithstanding any other provision of law, an appointed or elected state official or a state employee may use a state telephone to receive or place a local call for essential personal purposes to the extent that use does not interfere with the functions of the official's or

employee's agency, department, or institution. Each state agency, department, or institution may establish guidelines defining reasonable and appropriate use of state telephones for essential personal purposes.

54-06-27. Emergency service volunteers - Leave.

Upon issuance of an order or proclamation declaring a state of disaster or emergency pursuant to chapter 37-17.1, a search emergency by the air force rescue coordination center or by the department of emergency services, or a declaration of at least a level II disaster by the American red cross in this or any other state, the executive officer in charge of a state agency or the governing body of any political subdivision may grant a leave of absence to any full-time employee of that governmental entity who is an emergency medical service provider, a member of the civil air patrol, a firefighter, police officer, volunteer member of the North Dakota army or air national guard, or emergency radio operator, or who performs other services necessary in an emergency. The leave of absence must be for the purpose of allowing that employee to provide voluntary emergency services. An individual on leave under this section is not deemed to be an employee of the governmental entity for the purposes of workforce safety and insurance. The cumulative leave granted under this section may not exceed twenty working days during any calendar year. The leave may not result in a loss of compensation, seniority, annual leave, sick leave, or accrued overtime for which the employee is otherwise eligible.

54-06-28. Emergency service volunteers - Temporary leave for firefighters, emergency radio operators, medical service providers, and civil air patrol.

The executive officer in charge of a state agency or the governing body of any political subdivision may grant temporary short-term leave with compensation to any full-time employee of that governmental entity for the purpose of allowing the employee to respond to an emergency call if the employee is a volunteer emergency medical service provider, firefighter, emergency radio operator, or a member of the civil air patrol.

54-06-29. Expenses incurred to collect funds owed the state - Continuing appropriation.

If a state agency enters a contract with a collection or credit agency to collect money due the state, the fees for services, reimbursement, or other remuneration to the collection or credit agency must be based on the amount of money actually collected. All funds collected on behalf of a state agency by a collection or credit agency must be deposited with the state treasurer. An amount equal to the amount of fees for services, reimbursement, or any other remuneration to the collection or credit agency as set forth in the contract is appropriated from the fund into which the money collected was deposited to the state agency for which the funds were collected for the payment of fees due under the contract.

54-06-30. State employee performance bonus program - Criteria - Limitations.

State agencies may provide monetary performance bonuses to their employees under this section.

1. State agencies may pay bonuses under this section if:
    a. The agency has had a written employee performance evaluation policy in place for more than one year before paying the bonus;
    b. The written employee performance evaluation policy required in subdivision a must have at least three levels of performance criteria; and
    c. The agency performance bonus program adopted under this section must be a written policy and must be communicated to each employee in the agency. Development of the written policy must include input from employees.
2. State employees are eligible to receive a bonus under this section only if:
    a. The employee has held a position in state government for at least one year before a bonus is paid;
    b. The employee's overall annual performance evaluation satisfies the agency's performance bonus program criteria for receiving a bonus; and

c. The employee is a full-time or part-time regular nonprobationary employee holding a regularly funded nontemporary position.

3. An employee may not receive more than one performance bonus per fiscal year and may not receive more than one thousand five hundred dollars in bonuses per fiscal year.
4. Each agency must fund the performance bonus program from within its agency budget for salaries and wages.
5. Bonuses paid under this section may not be included in an employee's base salary for purposes of calculating any wage or salary increase.
6. Bonuses paid under this section are not fiscal irregularities under section 54-14-03.1.

54-06-31. State employee recruitment and retention bonus programs - Criteria - Limitations.

State agencies may develop programs to provide bonuses to recruit or retain employees in hard-to-fill occupations.

1. State agencies may pay recruitment and retention bonuses under this section only if:
   a. The agency has a written policy in place identifying eligible positions or occupations and provisions for providing and receiving bonuses;
   b. The agency has filed a copy of the written policy with the North Dakota human resource management services; and
   c. The agency reports to the North Dakota human resource management services each bonus provided to an employee under the program.
2. State agencies must fund bonus programs from within the agency salaries and wages budget.
3. The North Dakota human resource management services shall report periodically to the legislative management on the implementation, progress, and bonuses provided under agency recruitment and retention bonus programs.
4. Bonuses paid under this section are not fiscal irregularities under section 54-14-03.1.
5. As used in this section, a hard-to-fill occupation includes an occupation or position in which demand exceeds supply, special qualifications are required, competition with other employers is the strongest, there is a risk of losing an incumbent with rare skills, the position is filled by a highly skilled employee who is in high demand in the marketplace, loss of the employee would result in significant replacement costs, the position is filled by key personnel, or the position has other unique recruitment or retention issues identified and documented by the appointing authority.

54-06-32. State employee service awards.

Each state agency, department, or institution may establish rules or policies for employee recognition and service award programs. Executive branch agencies having employees in classified service are subject to rules adopted by North Dakota human resource management services and approved by the state personnel board and the legislative management's administrative rules committee. Any other agency, department, or institution of the executive, legislative, or judicial branch may adopt similar rules or policies to ensure uniformity and consistency in state government. Notwithstanding any other provision of law, each executive branch state agency, department, or institution, except an institution of higher education, having employees who are not in classified service and establishing rules or policies for employee recognition and service award programs shall submit the rules and policies to the office of management and budget for review and comment, and after addressing any comments of the office of management and budget, shall submit the rules and policies to the legislative management's administrative rules committee for approval. Within sixty days after the close of each biennial period, each state agency, department, or institution providing an employee service award under rules approved by the administrative rules committee shall file with the office of management and budget a report indicating the total amount of service awards paid. Within ninety days after the close of each biennial period, the office of management and budget shall submit to the legislative council a report summarizing this information. An expenditure

made under this section is deemed to be made for a public purpose and may not be construed as a gift for purposes of section 18 of article X of the Constitution of North Dakota.

54-06-33. Employer-paid tuition.

Each state agency, department, or institution may establish rules or policies to provide employer-paid costs of training or educational courses, including tuition and fees, within budgetary constraints. Executive branch agencies having employees in classified service are subject to rules adopted by North Dakota human resource management services and approved by the state personnel board and the legislative management's administrative rules committee. Any other state agency, department, or institution of the executive, legislative, or judicial branch may adopt rules or policies to ensure uniformity and consistency in state government. Notwithstanding any other provision of law, each executive branch state agency, department, or institution, except an institution of higher education, having employees who are not in classified service and establishing rules or policies for employer-paid costs of training or educational courses, including tuition and fees, shall submit the rules and policies to the office of management and budget for review and comment, and after addressing any comments of the office of management and budget, shall submit the rules and policies to the legislative management's administrative rules committee for approval. Within sixty days after the close of each biennial period, each state agency, department, or institution providing employer-paid costs of training or educational courses, including tuition and fees, under rules approved by the administrative rules committee, shall file with the office of management and budget a report indicating the total employer-paid costs of training and educational courses, including tuition and fees. Within ninety days after the close of each biennial period, the office of management and budget shall submit to the legislative council a report summarizing this information. An employee who receives employer-paid tuition reported under this section who leaves employment with the state within two years of receiving the tuition must repay tuition received under this section on a prorated basis. An expenditure for employer-paid training or educational courses, including tuition and fees, under this section is deemed to be made for a public purpose and may not be construed as a gift for purposes of section 18 of article X of the Constitution of North Dakota.

54-06-34. Employer-paid professional organization membership and service club dues.

Each state agency, department, or institution may pay employee membership dues for professional organizations and membership dues for service clubs when required to do business or if the membership is primarily for the benefit of the state. Within sixty days after the close of each biennial period, each executive branch state agency, department, or institution, except an institution of higher education, providing employer-paid professional organization membership and service club dues shall file with the office of management and budget a report indicating the total employer-paid professional organization membership and service club dues. Within ninety days after the close of each biennial period, the office of management and budget shall submit to the legislative council a report summarizing this information. An expenditure made under this section is deemed to be made for a public purpose and may not be construed as a gift for purposes of section 18 of article X of the Constitution of North Dakota.

54-06-35. Expenditure made pursuant to rule or policy.

An expenditure made pursuant to a rule or policy adopted pursuant to sections 54-06-32 through 54-06-34 is not a criminal offense.

54-06-36. Honor guard leave.

Honor guard leave is an approved absence from work, with pay, of up to twenty-four working hours per calendar year for an employee to participate in an honor guard for a funeral service of a veteran. A governmental entity may grant a request for honor guard leave even if the absence of the employee might interfere with the normal operations of the agency. This section applies to each governmental entity that employs an individual in a position classified by human resource management services.

54-06-37. Authorization to purchase or lease aircraft - Legislative assembly or budget section approval - Exception.

1. As used in this section, "airworthy" means an aircraft conforms to its type design and is in a condition for safe operation.
2. Except as otherwise provided in subsections 3 and 4, a state agency or other entity of state government may not purchase or lease a manned aircraft without specific authorization from the legislative assembly or the budget section if the legislative assembly is not in session. Any request considered by the budget section must comply with section 54-35-02.9.
3. In an emergency circumstance, a state agency, department, or institution may lease a manned aircraft without approval from the legislative assembly or the budget section if an aircraft currently leased or owned by the state agency, department, or institution is not airworthy. The emergency lease under this subsection may extend only until the aircraft deemed not airworthy is determined to be airworthy.
4. A state agency, department, or institution may purchase a replacement aircraft without approval from the legislative assembly or the budget section if an aircraft is destroyed beyond repair and only insurance proceeds are used for the purchase of the replacement aircraft. If the purchase price of a replacement aircraft exceeds the insurance proceeds, the state agency, department, or institution must receive authorization in accordance with subsection 2.
5. This section does not apply to aircraft purchased or leased by the office of the adjutant general or the university of North Dakota school of aviation.

54-06-38. Harassment policies.

Each state agency, department, and institution shall adopt and enforce a policy on employee harassment, including sexual harassment. The policy must clearly define harassment and specify the responsibilities of the employee, supervisor, and the agency, department, or institution. If an agency, department, or institution does not adopt a harassment policy, the agency, department, or institution must be subject to the policy adopted by the North Dakota human resource management services division.

54-06-39. Pledge of allegiance.

Notwithstanding any other provision of law, the governor or an executive branch officer or employee may not alter the language of the pledge of allegiance. The voluntary pledge is "I pledge allegiance to the flag, of the United States of America, and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all."

54-06-40. Proxy voting.

1. Proxy votes made on behalf of state funds or the funds of political subdivisions which receive investment management services from the state must be made in accordance with the requirements provided in section 21-10-08.1.
2. A state entity may not adopt a practice of following the recommendations of a proxy advisory firm or other service provider unless the proxy advisory firm's or the service provider's voting guidelines comply with the requirements of section 21-10-08.1.

54-06-41. Investments - Prohibition - Israel boycott.

1. As used in this section "boycott Israel" means engaging in refusals to deal, terminating business activities, or other similar commercial actions intended to limit commercial relations with persons doing business in Israel or in Israeli-controlled territories when the actions are taken:
   a. In compliance or adherence to calls for a boycott of Israel, other than those boycotts under Public Law No. 96-72 [50 U.S.C. 2407(c)]; or
   b. In a manner that discriminates on the basis of nationality, national origin, or religion.

2. Notwithstanding any other provision of law, the state may not adopt any investment policy that would have the effect of requiring or inducing any person to boycott Israel.
3. If the state receives evidence that a company boycotts Israel, the state shall determine whether the company boycotts Israel. If accompanied by the conduct described under subsection 1, a company statement that indicates the company is participating in a boycott of Israel or has taken boycott action at the request, in compliance with, or in furtherance of calls for a boycott of Israel, may be considered as one type of evidence that the company is participating in a boycott of Israel. An expressive activity, alone, directed at a specific person or a governmental action may not be considered evidence of a boycott of Israel.