

STATE GOVERNMENT

CHAPTER 430

SENATE BILL NO. 2150

(Senator G. Nelson)

GREAT SEAL USE

AN ACT to amend and reenact section 54-02-01 of the North Dakota Century Code, relating to permitted uses of the great seal; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-02-01 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-02-01. Great seal - Permitted uses - Penalty for commercial use.

1. The great seal of the state is that prescribed in section 2 of article XI of the Constitution of North Dakota. A description in writing of such seal must be deposited and recorded in the office of the secretary of state and must remain a public record. A reproduction of the great seal may be placed on any official form, document, or stationery of any agency, authority, board, body, branch, bureau, commission, committee, council, department, division, industry, institution, or instrumentality of the state or of any elected or appointed official of the state. A reproduction of the great seal may be placed on business calling cards produced for the use of an elected or appointed state official or state employee regardless of whether the cards are purchased by the official or employee or by the state. Any use of the great seal on any other object or thing by any of the foregoing state entities or officials is prohibited unless approved by the secretary of state; provided, however, that the state historical society and the parks and recreation department may, with the concurrence of the secretary of state, reproduce the great seal on any objects they offer for sale as souvenirs.
2. It is a class B misdemeanor for any person to:
 - a. Place or cause to be placed the great seal, or any reproduction of the great seal, on any political badge, button, insignia, pamphlet, folder, display card, sign, poster, billboard, or on any other public advertisement, or to otherwise use the great seal for any political purpose, as defined in section 16.1-10-02.
 - b. Place or cause to be placed on the great seal, or any reproduction thereof, any advertisement.
 - c. Expose the great seal, or any reproduction thereof, to public view with any advertisement attached thereto.

- d. Utilize the great seal, or a copy or reproduction thereof, for any commercial purpose.

As used in this subsection, "advertisement" means any printed matter, device, picture, or symbol, no matter how presented to the senses, which informs the public that a good or service is available; and "commercial purpose" means with intent to produce a pecuniary gain through sale of a good or service. Notwithstanding any other provision of law, the secretary of state may grant a written request by a private vendor to reproduce official state forms and documents, containing a reproduction of the great seal, for resale to persons intending to submit the forms or documents to any state entity in the regular course of business. The secretary of state may also grant a written request by a publisher, educational institution, or author to reproduce the great seal in any research, reference, or educational publication containing a compilation of the great seals of other states.

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

Approved March 25, 1997
Filed March 26, 1997

CHAPTER 431**HOUSE BILL NO. 1081**

(Representative Carlson)

REPRESENTATIVES ELECTION AND TERM

AN ACT to create and enact a new section to chapter 54-03 of the North Dakota Century Code, relating to the election and term of office of representatives.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-03 of the North Dakota Century Code is created and enacted as follows:

Staggering of terms of representatives. The term of office of a representative is four years, except a representative from an even-numbered district must be elected in 1998 for a term of two years.

Approved March 26, 1997
Filed March 27, 1997

CHAPTER 432

SENATE BILL NO. 2052

(Appropriations Committee)

(At the request of the Legislative Compensation Commission)

MEETING COMPENSATION AND REIMBURSEMENT

AN ACT to amend and reenact sections 4-09-03.1, 4-10.2-05, 4-10.3-05, 4-10.4-05, 4-10.5-04, 4-10.6-04, subsection 3 of section 4-27-05, section 4-28-05, the new section as provided by section 5 of Senate Bill No. 2124, sections 12-59-02, 15-10-08, 21-10-01, 23-01-02, 23-18.2-04, 24-02-37.1, subsection 2 of section 25-02-01.1, sections 25-04-20, 43-12.1-07, 43-35-07, 49-21-22.1, subdivision a of subsection 4 of section 49-23-03, subsection 13 of the new section to chapter 50-01.2 as created by section 2 of House Bill No. 1041, section 54-03-19.1, subsection 4 of section 54-06-25, the new section as provided by section 4 of Senate Bill No. 2298, sections 54-24.3-02, 54-24.4-02 as created by section 19 of House Bill No. 1035, 54-35.2-04, subsection 6 of section 54-52-03, the new section as provided by section 4 of Senate Bill No. 2271, sections 61-02-12, 61-04.1-07, 61-06-22, 61-24-04, 61-24.5-04, the new section as provided by section 3 of Senate Bill No. 2239, and the new section to chapter 65-02 as created by section 4 of House Bill No. 1440, of the North Dakota Century Code, relating to compensation and reimbursement of members of various boards, councils, and commissions and the appointment of members of the legislative compensation commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4-09-03.1 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-09-03.1. State seed arbitration board - Compensation and expenses. The state seed arbitration board consists of the commissioner of agriculture, the director of the North Dakota state university extension service, the director of the North Dakota agricultural experiment station, the chair of the North Dakota seed trade committee of the North Dakota agriculture association, and a representative of a major North Dakota farm organization appointed by the commissioner of agriculture, or their authorized designees. Each board member is entitled to receive ~~the same as~~ as per diem compensation ~~as provided for members of the legislative council under section 54-35-10~~ sixty-two dollars and fifty cents, and reimbursement of expenses as provided by law for state officers, while attending meetings or performing duties directed by the board, except that no compensation under this section may be paid to any member who receives compensation or salary as a regular state employee or official. Compensation and expenses for board members who do not receive compensation or salary as a regular state employee or official must be paid by the department of agriculture.

¹ **SECTION 2. AMENDMENT.** Section 4-10.2-05 of the North Dakota Century Code as amended by section 2 of House Bill No. 1199, as approved by the fifty-fifth legislative assembly, is amended and reenacted as follows:

4-10.2-05. Meetings - Quorum - Compensation and expenses of council. A majority of the voting members of the council constitutes a quorum for the transaction of all business in carrying out the duties of the council. All meetings of the council must be called by the chairman except special meetings which must be called by the chairman on the petition of two council members within seven days of receiving such a petition. Each member of the council is entitled to receive ~~the same per diem as~~ compensation as ~~provided for members of the legislative council under section 54-35-10,~~ sixty-two dollars and fifty cents per day and to reimbursement of expenses as provided by law for state officers, while attending meetings or performing duties directed by the council. No compensation may be paid under this section to any member who receives compensation or salary as a regular state employee or official.

² **SECTION 3. AMENDMENT.** Section 4-10.3-05 of the North Dakota Century Code as amended by section 8 of House Bill No. 1339, as approved by the fifty-fifth legislative assembly, is amended and reenacted as follows:

4-10.3-05. Meetings - Quorum - Compensation and expenses of council. A majority of the voting members of the council constitutes a quorum for the transaction of all business in carrying out the duties of the council. The chairman shall call meetings of the council. The chairman shall call all special meetings on the petition of three council members within seven days of receiving the petition. Each member of the council; is entitled to receive ~~the same per diem as~~ compensation as ~~provided for members of the legislative council under section 54-35-10,~~ sixty-two dollars and fifty cents per day and to reimbursement of expenses as provided by law for state officers, while attending meetings or performing duties directed by the council. No compensation may be paid under this section to any member who receives compensation or salary as a regular state employee or official.

SECTION 4. AMENDMENT. Section 4-10.4-05 of the North Dakota Century Code is amended and reenacted as follows:

4-10.4-05. Meetings - Quorum - Compensation and expenses of council. A quorum is necessary for the transaction of all business in carrying out the duties of the council. The chairman shall call all meetings of the council except special meetings which the chairman shall call on the petition of two council members within seven days of receiving such a petition. Each voting member of the council is entitled to receive ~~the same~~ sixty-two dollars and fifty cents as compensation per day ~~as provided in section 54-35-10 for members of the legislative council and their~~ necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09 while attending council meetings or in the performance of such special duties as the council may direct. The compensation provided in this section ~~must~~ may not be paid to any member of the council who receives salary or other compensation as a regular employee of the state.

¹ Section 4-10.2-05 was also amended by section 2 of House Bill No. 1199, chapter 62.

² Section 4-10.3-05 was also amended by section 8 of House Bill No. 1339, chapter 63.

SECTION 5. AMENDMENT. Section 4-10.5-04 of the North Dakota Century Code is amended and reenacted as follows:

4-10.5-04. Meetings - Quorum - Compensation and expenses of council. All meetings of the council must be called by the chairman except special meetings which must be called by the chairman on the petition of three council members within seven days of receiving the petition. Each member of the council, except the commissioner, ~~will~~ is entitled to receive the same sixty-two dollars and fifty cents per day as compensation as provided for members of the legislative council under section 54-35-10, together with expenses as provided in sections 44-08-04 and 54-06-09, while attending meetings or performing duties directed by the council, except that no compensation may be paid to any council member who receives compensation or salary as a regular state employee or official.

SECTION 6. AMENDMENT. Section 4-10.6-04 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-10.6-04. Meetings - Compensation and expenses of council. The chairman shall call all meetings of the council. The chairman shall call special meetings on the petition of three council members, within seven days of receiving the petition. Each council member is entitled to receive ~~the same as~~ per diem compensation as provided for members of the legislative council under section 54-35-10 sixty-two dollars and fifty cents, and reimbursement of expenses as provided by law for state officers, while attending meetings or performing duties directed by the council, except that no compensation under this section may be paid to any member who receives compensation or salary as a regular state employee or official.

SECTION 7. AMENDMENT. Subsection 3 of section 4-27-05 of the North Dakota Century Code is amended and reenacted as follows:

3. The appointive and elected members of the commission ~~shall~~ are entitled to receive a salary equal to seventy-five percent of the compensation of forty-seven dollars per day as provided in section 54-35-10 for members of the legislative council while actually engaged in the official duties of the commission, plus their actual expenses at the same rates as other state officials.

SECTION 8. AMENDMENT. Section 4-28-05 of the North Dakota Century Code is amended and reenacted as follows:

4-28-05. Wheat commission - Meeting - Expenses - Legal adviser. Upon call of the governor, the commission shall first meet and organize by electing from the membership a chairman and vice chairman, who shall hold office for one year and until their successors are elected and have qualified. Thereafter the commission shall meet at least once every calendar quarter at such times and places as ~~must be~~ determined by the commission and may meet in special meetings upon such call and notice as ~~may be~~ prescribed by rules adopted by the commission. Members of the commission must be reimbursed for actual expenses necessarily incurred in attending meetings and performing other official duties on the same basis as other state officers and are entitled to receive ~~the same as~~ per diem compensation as provided in section 54-35-10 for members of the legislative council sixty-two dollars and fifty cents for each day actually devoted to official business of the commission. The attorney general shall act as legal adviser to the commission or designate an assistant for that purpose and within the limit of the funds available to the commission it may employ other counsel to advise and represent the commission in its affairs and proceedings.

³ **SECTION 9. AMENDMENT.** The new section as provided by section 5 of Senate Bill No. 2124, as approved by the fifty-fifth legislative assembly, is amended and reenacted as follows:

Meetings - Quorum - Compensation of council members. A majority of the voting members of the council ~~constitute~~ constitutes a quorum for the transaction of all business in carrying out the duties of the council. All meetings of the council must be called by the chairman except special meetings which must be called by the chairman on the petition of three council members within seven days of receiving the petition. Each member of the council is entitled to receive ~~the same per diem as~~ compensation as provided for members of the legislative council under section 54-35-10, sixty-two dollars and fifty cents per day and to reimbursement of expenses as provided by law for state officers, while attending meetings or performing duties directed by the council, except that no compensation under this section may be paid to any member who receives compensation or salary as a regular state employee or official.

⁴ **SECTION 10. AMENDMENT.** Section 12-59-02 of the North Dakota Century Code as amended by section 1 of Senate Bill No. 2128, as approved by the fifty-fifth legislative assembly, is amended and reenacted as follows:

12-59-02. Meetings - Compensation. The board shall organize by selecting a chairman. Meetings of the board must be held as often as required to properly conduct the business of the board, but in any event not less than six times per year. The parole board may only take action upon the concurrence of at least two members. Members are entitled to be compensated at the ~~same rate provided for members of the legislative council under section 54-35-10~~ of sixty-two dollars and fifty cents per day for each day actually and necessarily spent in the performance of their duties as board members plus the same mileage and expenses as are authorized for state officials and employees. The director of the division of parole and probation, or the director's designee, shall be the clerk for the parole board.

⁵ **SECTION 11. AMENDMENT.** Section 15-10-08 of the North Dakota Century Code as amended by section 1 of House Bill No. 1312, as approved by the fifty-fifth legislative assembly, is amended and reenacted as follows:

15-10-08. Compensation of board members - Expenses - Legislative appropriations. Each member of the state board of higher education, except the student member, is entitled to receive as compensation sixty-two dollars and fifty cents per day ~~in the same amount provided for members of the legislative council~~ for each calendar day actually spent devoted to the duties of office, and necessary expenses in the same manner and amounts as other state officials for attending meetings and performing other functions of office. The legislative assembly shall provide adequate funds to carry out the functions and duties of the board.

³ Section 4-10.7-05 was created by section 5 of Senate Bill No. 2124, chapter 66.

⁴ Section 12-59-02 was also amended by section 1 of Senate Bill No. 2128, chapter 116.

⁵ Section 15-10-08 was also amended by section 1 of House Bill No. 1312, chapter 155.

SECTION 12. AMENDMENT. Section 21-10-01 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

21-10-01. State investment board - Membership - Term - Compensation - Advisory council.

1. The North Dakota state investment board consists of the governor, the state treasurer, the commissioner of university and school lands, the director of the workers compensation bureau, the commissioner of insurance, three members of the teachers' fund for retirement board or the board's designees who need not be members of the fund as selected by that board, and three of the elected members of the public employees retirement system board as selected by that board. The teachers' fund for retirement board may appoint an alternate designee with full voting privileges to attend meetings of the state investment board when a selected member is unable to attend. The public employees retirement system board may appoint an alternate designee with full voting privileges from the public employees retirement system board to attend meetings of the state investment board when a selected member is unable to attend. The members of the state investment board, except elected and appointed officials, are entitled to receive the same sixty-two dollars and fifty cents as compensation per day as provided in section 54-35-10 for members of the legislative council and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09 for attending meetings of the state investment board.
2. The state investment board may establish an advisory council composed of individuals who are experienced and knowledgeable in the field of investments. The state investment board shall determine the responsibilities of the advisory council. Members of the advisory council are entitled to receive the same compensation as provided the members of the advisory board of the Bank of North Dakota and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09.

⁶ **SECTION 13. AMENDMENT.** Section 23-01-02 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23-01-02. Health council - Members, terms of office, vacancies, compensation, officers, meetings. The health council consists of nine members appointed by the governor in the following manner: Four persons from the health care field and five persons representing consumer interests. The governor may select members to the council from recommendations submitted by trade, professional, and consumer organizations. On the expiration of the term of any member, the governor, in the manner provided by this section, shall appoint for a term of three years, persons to take the place of members whose terms on the council are about to expire. The officers of the council must be elected annually. Any state agency may serve in an advisory capacity to the health council at the discretion of the council. The council shall meet at least twice each year and at other times as the council or its chairman may direct. The health council shall have as standing committees any committees

⁶ Section 23-01-02 was also amended by section 1 of House Bill No. 1410, chapter 232.

the council may find necessary. The chairman of the council shall select the members of these committees. The members of the council are entitled to receive ~~the same sixty-two dollars and fifty cents as compensation per day as provided in section 54-35-10 for members of the legislative council~~ and their necessary mileage and travel expenses as provided in sections 54-06-09 and 44-08-04 while attending council meetings or in the performance of any special duties as the council may direct. The per diem and expenses must be audited and paid in the manner in which the expenses of state officers are audited and paid. The compensation provided for in this section may not be paid to any member of the council who received salary or other compensation as a regular employee of the state, or any of its political subdivisions, or any institution or industry operated by the state.

SECTION 14. AMENDMENT. Section 23-18.2-04 of the North Dakota Century Code is amended and reenacted as follows:

23-18.2-04. Commissioners of authority - Appointment, compensation, qualifications, tenure. Upon an affirmative vote of the county electors in the election required by section 23-18.2-03, the board of county commissioners shall appoint five persons as commissioners for the authority created in ~~such~~ the county. The commissioners who are first appointed must be designated to serve for terms of one, two, three, four, and five years, respectively, from the date of their appointment, and thereafter, each commissioner must be appointed for a term of five years, except that all vacancies must be filled for the unexpired term. No commissioner of an authority may be an officer or an employee of the county for which the authority is created. A commissioner shall hold office until ~~his~~ a successor has been appointed and has qualified. A commissioner ~~shall~~ is entitled to receive as compensation in the amount provided in subsection 4 of section 54-35-10 sixty-two dollars and fifty cents per day while actually engaged in official duties of the authority and must be reimbursed for mileage and expenses in the amounts provided by sections 44-08-04 and 54-06-09.

⁷ **SECTION 15. AMENDMENT.** Section 24-02-37.1 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

24-02-37.1. Special road advisory committee. The special road advisory committee consists of one member of the senate transportation committee and one member of the senate appropriations committee appointed by the chairman of the legislative council and one member of the house of representatives transportation committee and one member of the house of representatives appropriations committee appointed by the chairman of the legislative council and also the director of the game and fish department, the director of the parks and recreation department, the director of the department of economic development and finance, and the commissioner. The committee shall meet at the call of the commissioner, who is chairman of the committee, to review requests for funding from the special road fund and to advise the commissioner regarding funding requested projects. The commissioner shall provide staff services to the committee. All final decisions regarding funding requested projects are in the sole discretion of the commissioner. The members of the commission who are members of the legislative assembly must be compensated by the department, from moneys appropriated from the special road fund, for attendance at committee meetings at the rate provided ~~in section 54-35-10~~

⁷ Section 24-02-37.1 was also amended by section 8 of Senate Bill No. 2012, chapter 41, and repealed by section 11 of Senate Bill No. 2012, chapter 41.

for members of the legislative assembly for attendance at interim committee meetings and are entitled to reimbursement for expenses incurred in attending the meetings in the amounts provided by law for other state officers.

SECTION 16. AMENDMENT. Subsection 2 of section 25-02-01.1 of the North Dakota Century Code is amended and reenacted as follows:

2. The department, in consultation with the state hospital, shall create a state hospital governing body and shall by rules describe the powers and duties of the governing body. The department shall compensate ~~and reimburse~~ members not employed by the department in the ~~same manner and amount as members of the legislative council are compensated and reimbursed under section 54-35-10~~ of sixty-two dollars and fifty cents per day and reimburse members for expenses incurred in attending meetings in the amounts provided by sections 44-08-04 and 54-06-09.

⁸ **SECTION 17. AMENDMENT.** Section 25-04-20 of the North Dakota Century Code is amended and reenacted as follows:

25-04-20. Westwood park assets management committee. The westwood park assets management committee consists of eleven members appointed by the governor as follows: three members of the senate, two from the majority faction and one from the minority faction, and three members of the house of representatives, two from the majority faction and one from the minority faction; a representative of the department of human services; a representative of the department of economic development and finance; a representative of the attorney general's office; the mayor of Grafton; and the governor or the governor's designee. The officers of the westwood park assets management committee must be elected annually. Any state agency may serve in an advisory capacity to the westwood park assets management committee at the discretion of the committee. The committee shall meet at least twice each year and at other times as the committee or its chairman may direct. The legislative members of the committee are entitled to receive the same compensation per day as ~~provided in section 54-35-10~~ established for members of the legislative council assembly for attendance at interim committee meetings and the necessary mileage and travel expenses provided in sections 44-08-04 and 54-06-09 while attending committee meetings or in the performance of such special duties as the committee may direct. The compensation provided for in this section may not be paid to any member of the committee who received salary or other compensation as a regular employee of the state, or any of its political subdivisions, or any institution or industry operated by the state. The westwood park assets management committee shall act when the legislative assembly is not in session to sell, lease, and otherwise manage the property of westwood park, subject to prior budget section approval. The department of human services shall provide staff services for the westwood park assets committee. Any conveyance made by the committee under this section is exempt from sections 54-01-05.2 and 54-01-05.5.

SECTION 18. AMENDMENT. Section 43-12.1-07 of the North Dakota Century Code is amended and reenacted as follows:

⁸ Section 25-04-20 was also amended by section 10 of House Bill No. 1012, chapter 12.

43-12.1-07. Compensation of board members. In addition to the expenses incurred while engaged in the performance of the duties of office, each board member shall receive a per diem fee not to exceed ~~the compensation allowed members of the legislative assembly~~ ninety dollars for each day of service ~~under section 54-03-20.~~

SECTION 19. AMENDMENT. Section 43-35-07 of the North Dakota Century Code is amended and reenacted as follows:

43-35-07. Compensation and reimbursement of expenses. Each appointive member of the board ~~shall~~ is entitled to receive the same sixty-two dollars and fifty cents compensation per day and must be reimbursed for ~~his~~ expenses in the same amounts as provided for in ~~section 54-35-10 for members of the legislative council~~ sections 44-08-04 and 54-06-09 while attending board meetings or otherwise engaged in the official business of the board.

SECTION 20. AMENDMENT. Section 49-21-22.1 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-21-22.1. (Effective until December 31, 1998) Regulatory reform review commission - Appointments - Compensation - Report to legislative council. The regulatory reform review commission shall review the operation and effect of North Dakota telecommunications law on an ongoing basis during the interims between the 1995 and 1999 legislative sessions and shall submit a report regarding its operation and effect to the legislative council in 1996 and 1998. The regulatory reform review commission may review the effect of taxation laws on North Dakota telecommunications law during the interims between the 1995 and 1999 legislative sessions and may include any findings and recommendations with respect to its review of the effect of taxation laws on North Dakota telecommunications law in the report to the legislative council in 1996 and 1998. The regulatory reform review commission consists of one member of the public service commission who has responsibility for telecommunications regulation, two members of the senate, appointed by the president of the senate, and two members of the house of representatives, appointed by the speaker. The chairman of the legislative council shall designate the chairman and vice chairman of the regulatory reform review commission from the legislative members of the commission. The public service commission shall provide technical assistance and the legislative council shall provide staff services to the regulatory reform review commission. The legislative members of the regulatory reform review commission are entitled to the same compensation as provided for members of committees of the legislative council ~~under section 54-35-10.~~ The legislative council shall pay the compensation for the legislative members of the regulatory reform review commission. The public service commission shall pay the expenses of the member of the public service commission serving on the regulatory reform review commission and of the public service commission staff providing technical assistance while carrying out their duties.

⁹ **SECTION 21. AMENDMENT.** Subdivision a of subsection 4 of section 49-23-03 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

⁹ Section 49-23-03 was also amended by section 1 of Senate Bill No. 2328, chapter 402.

- a. The nonprofit corporation must be incorporated by seventeen initial incorporators, with one member representing the house of representatives and one member representing the senate appointed by the legislative council, one member representing telecommunications companies offering local exchange service to fewer than fifty thousand subscribers, one member representing telecommunications companies offering local exchange service to fifty thousand or more subscribers, one member representing rural water systems, one member representing rural electric cooperatives, one member representing investor-owned electric utilities, one member representing investor-owned natural gas utilities, one member representing cable television systems, one member representing cities with a population of fewer than five thousand, one member representing cities with a population of at least five thousand, one member representing counties, one member representing underground interstate carriers of gas, one member representing interstate carriers of petroleum, one member representing interstate carriers of telecommunications services, one member representing contractors who perform excavation services, and one member representing the production sector of the American petroleum institute. The initial incorporators must represent and be designated by operators, excavators, and other persons eligible to participate in the center. The legislative members are entitled to the same compensation and expenses as provided for members of committees of the legislative council ~~under section 54-35-10~~. The legislative council shall pay the compensation for the legislative members.

¹⁰ **SECTION 22. AMENDMENT.** Subsection 13 of the new section to chapter 50-01.2 of the North Dakota Century Code as created by section 2 of House Bill No. 1041, as approved by the fifty-fifth legislative assembly, is amended and reenacted as follows:

13. Members of a peer review committee are entitled to receive compensation by the department in the ~~same amounts as members of the legislative council~~ amount of sixty-two dollars and fifty cents per day. The county requesting the review shall reimburse the department for one-half of that cost.

SECTION 23. AMENDMENT. Section 54-03-19.1 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-03-19.1. Legislative compensation commission - Appointment of members.

1. The legislative compensation commission shall develop recommendations for a long-term policy on legislative compensation, expense allowance, and insurance benefits, and recommend appropriate levels of compensation, expense allowance, and insurance benefits to be paid to or on behalf of members of the legislative assembly.

¹⁰ Section 50-01.2-06 was created by section 2 of House Bill No. 1041, chapter 403.

2. The governor shall appoint five members to the commission. No more than three appointees may represent the same political party. No member of the commission may hold state office or serve in state government in any capacity at the time of appointment or during service on the commission. The members must be appointed for a term of four years, and the governor shall appoint one of the members chairman of the commission.

¹¹ **SECTION 24. AMENDMENT.** Subsection 4 of section 54-06-25 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. The members of the legislative assembly who are commission members are entitled to receive compensation from the legislative council for each day in attendance at commission meetings in the same manner as provided ~~in section 54-35-10~~ for members of the legislative council and reimbursement from the legislative council for travel and other necessary expenses incurred in performing commission duties in the amounts provided for state employees under section 54-06-09. The state employee members of the commission are entitled to receive reimbursement for necessary expenses incurred in attending commission meetings at the rates provided for state employees under section 54-06-09 and may not be assessed any annual leave or loss of salary for attendance at meetings of the commission. The employing agency of state employee members shall pay their expenses.

SECTION 25. AMENDMENT. The new section as provided by section 4 of Senate Bill No. 2298, as approved by the fifty-fifth legislative assembly, is amended and reenacted as follows:

Board of directors - Officers - Meetings - Compensation. The board of directors consists of nine members. Except as provided in section 6, each director must reside within the area of the director's county comprising the Devils Lake basin water board. The board of directors shall elect from the directors a chairman, vice chairman, and secretary. The chairman shall designate the time and place for the board of directors to meet; however, the board of directors shall meet if three directors call for a meeting. The secretary shall notify, by mail, each director of meetings. The board of directors must meet at least once each quarter. A director is entitled to receive as compensation ~~in the amount not to exceed the amount provided for members of the legislative council by section 54-35-10~~ sixty-two dollars and fifty cents per day and is entitled to be reimbursed for mileage and expenses in the amount provided for state officials by sections 44-08-04 and 54-06-09.

SECTION 26. AMENDMENT. Section 54-24.3-02 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-24.3-02. Committee - Membership - Compensation. The superintendent of public instruction shall appoint a seven-member statewide library planning committee. The members must include a state legislator; a representative of the superintendent of public instruction; a representative of the state library; a

¹¹ Section 54-06-25 was also amended by section 1 of Senate Bill No. 2138, chapter 440.

representative of a school library media center; a representative of a college or university library; a representative of a public library; and a representative of a special library. The term of office for each member of the committee is three years and no person may serve more than two 3-year terms. The superintendent of public instruction shall stagger the terms so that initially, three members are appointed for three years, three members are appointed for two years, and one member is appointed for one year. Each member of the committee is entitled to receive ~~the same~~ sixty-two dollars and fifty cents per day compensation ~~as provided for members of the legislative council under section 54-35-10~~, together with expenses as provided in sections 44-08-04 and 54-06-09, while attending meetings or performing duties directed by the committee, except that no compensation may be paid to any committee member who receives compensation or salary as a regular state employee or official.

¹² **SECTION 27. AMENDMENT.** Section 54-24.4-02 of the North Dakota Century Code as created by section 19 of House Bill No. 1035, as approved by the fifty-fifth legislative assembly, is amended and reenacted as follows:

54-24.4-02. North Dakota library coordinating council - Compensation and expense reimbursement. Each member of the North Dakota library coordinating council is entitled to receive ~~the same per day as~~ compensation ~~as provided for members of the legislative council under section 54-35-10~~ sixty-two dollars and fifty cents per day, together with expenses as provided in sections 44-08-04 and 54-06-09, while attending meetings or performing duties directed by the council. No compensation may be paid under this section to any council member who receives compensation as a regular state official or employee.

SECTION 28. AMENDMENT. Section 54-35.2-04 of the North Dakota Century Code is amended and reenacted as follows:

54-35.2-04. Finances.

1. A member of the advisory commission on intergovernmental relations who is a member of the legislative assembly is entitled to receive, from funds available to the commission, compensation per day for each day spent in attendance at commission meetings in the same amount as provided ~~in section 54-35-10~~ for members of the legislative council and reimbursement for travel and other necessary expenses incurred in the performance of official duties in the amounts provided by law for other state officers. Members of the advisory commission on intergovernmental relations who are appointed by an organization representing political subdivisions may be reimbursed for attendance at commission meetings by the organization by which they were appointed.
2. The commission may apply for, contract for, receive, and expend for its purposes any appropriation or grant from any public or private source.
3. Political subdivisions of the state may appropriate funds to the commission to share in the cost of its operations.

¹² Section 54-24.4-02 was created by section 19 of House Bill No. 1035, chapter 453.

SECTION 29. AMENDMENT. Subsection 6 of section 54-52-03 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

6. The members of the board are entitled to receive sixty-two dollars and fifty cents per day compensation ~~as provided in section 54-35-10 for members of the legislative council~~ and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09. This is in addition to any other pay or allowance due the chairman or a member, plus an allowance for expenses they may incur through service on the board.

SECTION 30. AMENDMENT. The new section as provided by section 4 of Senate Bill No. 2271, as approved by the fifty-fifth legislative assembly, is amended and reenacted as follows:

Board of directors - Officers - Meetings - Compensation. The board of directors of a regional water resource district consists of one member from each of the existing water resource districts within the regional district. Each director must be a member of a water resource district board. The regional water resource district board shall elect from the members a chairman, vice chairman, and secretary. The chairman shall designate the time and place for the board to meet; however, the board shall meet if three directors call for a meeting. The secretary shall notify, by mail, each member of meetings. A member is entitled to receive as compensation sixty-two dollars and fifty cents per day from the water resource district the member represents on the regional board ~~in the amount not to exceed the amount provided for members of the legislative council by section 54-35-10~~ and is entitled to be reimbursed for mileage and expenses in the amount provided for state officials by sections 44-08-04 and 54-06-09.

SECTION 31. AMENDMENT. Section 61-02-12 of the North Dakota Century Code is amended and reenacted as follows:

61-02-12. Compensation and expenses of appointive members of commission. Each appointive member of the commission ~~shall~~ is entitled to receive the same sixty-two dollars and fifty cents compensation per day and must be reimbursed for expenses in the ~~same~~ same amounts ~~as provided for in section 54-35-10 for members of the legislative council~~ sections 44-08-04 and 54-06-09 while attending meetings of the commission or, at the discretion of the member, ~~shall~~ may receive either per diem compensation or expenses in ~~the those~~ those amounts ~~provided in section 54-35-10~~ while otherwise engaged in official business of the commission, including time of travel between home and the place at which the member performs such duties.

SECTION 32. AMENDMENT. Section 61-04.1-07 of the North Dakota Century Code is amended and reenacted as follows:

61-04.1-07. Board officers - Compensation. All members of the board, with the exception of the chairman, ~~shall be~~ are voting members. The board shall elect annually from its membership a chairman, vice chairman, and secretary. A majority of the members ~~shall~~ constitute a quorum for the purpose of conducting the business of the board. Board members who are not full-time salaried employees of this state ~~shall~~ are entitled to receive compensation ~~in the amount provided in subsection 4 of section 54-35-10,~~ of sixty-two dollars and fifty cents per day and ~~shall~~ must be reimbursed for their mileage and expenses in the amounts provided by sections 44-08-04 and 54-06-09. All other members of the board ~~shall~~ must be reimbursed

for necessary travel and other expenses incurred in the performance of the business of the board in the amounts provided in sections 44-08-04 and 54-06-09.

SECTION 33. AMENDMENT. Section 61-06-22 of the North Dakota Century Code is amended and reenacted as follows:

61-06-22. Directors and officers - Salary, mileage, and expenses. The compensation for each director per day while performing duties as a member of the board ~~shall~~ must be fixed by the board of directors, but ~~shall~~ may be no more than ~~the compensation~~ sixty-two dollars and fifty cents per day as provided for in section 54-35-10 for members of the legislative council. The allowance for meals and lodging expenses ~~shall~~ must be at the same rate and under the same conditions as provided for state officials and employees. The allowance for travel expenses ~~shall~~ must be at the same rate as provided by section 11-10-15 and ~~shall~~ must be evidenced by a subvoucher or receipt, in a manner determined by the board of directors. The salary of the secretary, assessor, and treasurer ~~shall~~ must be determined by the board of directors.

SECTION 34. AMENDMENT. Section 61-24-04 of the North Dakota Century Code is amended and reenacted as follows:

61-24-04. Compensation of directors. Each member of the board of directors of the district ~~shall~~ is entitled to receive from the district the same sixty-two dollars and fifty cents compensation per day and shall must be reimbursed for the member's expenses in the ~~same amounts as provided for in section 54-35-10 for members of the legislative council~~ sections 44-08-04 and 54-06-09 while attending meetings of the board or otherwise engaged in the official business of the district.

SECTION 35. AMENDMENT. Section 61-24.5-04 of the North Dakota Century Code is amended and reenacted as follows:

61-24.5-04. Board of directors - Officers - Meetings - Compensation. The authority must be governed by a board of directors who must be chosen in accordance with ~~the provisions of~~ this chapter. At the first election after the initial board of directors has been appointed, two directors must be elected from each county within the authority, and three directors must be elected in the city of Dickinson. The two directors from Stark County may not be residents of the city of Dickinson. The board shall elect from the directors a chairman, vice chairman, and secretary. A majority of the directors constitutes a quorum for the purpose of conducting the business of the board. The board shall meet at the time and place designated by the secretary. Board members ~~shall~~ are entitled to receive compensation in the amount not to exceed ~~the amount provided for by subsection 4 of section 54-35-10~~ sixty-two dollars and fifty cents per day, and must be reimbursed for their mileage and expenses in the amount provided for by sections 44-08-04 and 54-06-09.

¹³ **SECTION 36. AMENDMENT.** The new section as provided by section 3 of Senate Bill No. 2239, as approved by the fifty-fifth legislative assembly, is amended and reenacted as follows:

¹³ Section 61-36-03 was created by section 3 of Senate Bill No. 2239, chapter 524.

Compensation and expenses. Each member appointed by the governor is entitled to receive ~~the same as~~ compensation sixty-two dollars and fifty cents per day and must be reimbursed for expenses, while attending meetings of the committee; ~~in the same amounts as provided for in section 54-35-10 for members of the legislative council.~~

¹⁴ **SECTION 37. AMENDMENT.** The new section to chapter 65-02 of the North Dakota Century Code as created by section 4 of House Bill No. 1440, as approved by the fifty-fifth legislative assembly, is amended and reenacted as follows:

Compensation of board members. A board member is entitled to receive as compensation in the same amount and manner as provided for legislative council committee members under section 54-35-10 sixty-two dollars and fifty cents per day. A board member is entitled to reimbursement for mileage and expenses as provided for state officers, but the mileage allowance must equal the federal internal revenue service mileage allowance.

Approved April 1, 1997

Filed April 2, 1997

¹⁴ Section 65-02-03.2 was also amended by section 4 of House Bill No. 1440, chapter 528.

CHAPTER 433

SENATE BILL NO. 2051

(Appropriations Committee)

(At the request of the Legislative Compensation Commission)

LEGISLATIVE COMPENSATION AND REIMBURSEMENT

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁵ **SECTION 1. AMENDMENT.** Section 54-03-20 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted 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~~ one hundred eleven dollars for each calendar day during any organizational, special, or regular legislative session. Each member of the legislative assembly is entitled to receive reimbursement for lodging, 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 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 with the additional limitation that reimbursement for travel by common carrier may not exceed thirty-five cents per mile based upon air mileage. A member of the legislative assembly who does not receive reimbursement for lodging and whose place of residence in the legislative district that the member represents is not within the city of Bismarck is entitled to reimbursement at the rate provided for state employees for necessary travel for not to exceed one round trip taken per day between the residence and the place of meeting of the legislative assembly when it is in session and may receive reimbursement for lodging at the place of meeting of the legislative assembly as provided in section 44-08-04 for each calendar day for which round trip travel reimbursement is not claimed, provided that the total reimbursement may not exceed six hundred dollars per month. The amount to which each legislator is entitled must be paid following the organizational session in December and following each month during a regular or special session.

¹⁵ Section 54-03-20 was also amended by section 1 of Senate Bill No. 2053, chapter 434, and section 1 of Senate Bill No. 2056, chapter 435.

A day, or portion of a day, spent in traveling to or returning from an organizational, special, or regular session must be included as a calendar day during a legislative session for the purposes of this section.

In addition, each member is entitled to 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~~ two hundred ~~eighty~~ fifty dollars a month, which is payable every six months or monthly, at the member's option. If a member dies or resigns from office during the member's term, the member may 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 must 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)].

SECTION 2. RETROACTIVE APPLICATION. This Act is retroactive in application to January 1, 1997.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 21, 1997
Filed March 21, 1997

CHAPTER 434

SENATE BILL NO. 2053

(Appropriations Committee)

(At the request of the Legislative Compensation Commission)

LEGISLATIVE LODGING REIMBURSEMENT

AN ACT to amend and reenact section 54-03-20 of the North Dakota Century Code, relating to compensation and reimbursement of members of the legislative assembly.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁶ **SECTION 1. AMENDMENT.** Section 54-03-20 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted 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 during any organizational, special, or regular legislative session. Each member of the legislative assembly is entitled to receive reimbursement for lodging, which may not exceed a maximum of six hundred fifty 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 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 with the additional limitation that reimbursement for travel by common carrier may not exceed thirty-five cents per mile based upon air mileage. A member of the legislative assembly who does not receive reimbursement for lodging and whose place of residence in the legislative district that the member represents is not within the city of Bismarck is entitled to reimbursement at the rate provided for state employees for necessary travel for not to exceed one round trip taken per day between the residence and the place of meeting of the legislative assembly when it is in session and may receive reimbursement for lodging at the place of meeting of the legislative assembly as provided in section 44-08-04 for each calendar day for which round trip travel reimbursement is not claimed, provided that the total reimbursement may not exceed six hundred fifty dollars per month. The amount to which each legislator is entitled must 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 must be included as a calendar day during a legislative session for the purposes of this section.

¹⁶ Section 54-03-20 was also amended by section 1 of Senate Bill No. 2051, chapter 433, and section 1 of Senate Bill No. 2056, chapter 435.

In addition, each member is entitled to 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 may 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 must 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)].

Approved March 19, 1997

Filed March 19, 1997

CHAPTER 435

SENATE BILL NO. 2056

(Senators C. Nelson, DeMers, Goetz)
(Representatives Aarsvold, Maragos, Nottestad)

LEGISLATIVE AND STATE EMPLOYEE TRAVEL REIMBURSEMENT

AN ACT to amend and reenact section 54-03-20 and subsection 1 of section 54-06-09 of the North Dakota Century Code, relating to expense reimbursement for members of the legislative assembly and mileage and travel expense of state officers and employees; to provide for retroactive application; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷ **SECTION 1. AMENDMENT.** Section 54-03-20 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted 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 during any organizational, special, or regular legislative session. Each member of the legislative assembly is entitled to receive reimbursement for lodging, 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 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 with the additional limitation that reimbursement for travel by common carrier may be only at the cost of coach fare and may not exceed thirty-five cents per mile based upon ~~at~~ one and one-half times the amount the member would be entitled to receive as mileage reimbursement for travel by motor vehicle. A member of the legislative assembly who does not receive reimbursement for lodging and whose place of residence in the legislative district that the member represents is not within the city of Bismarck is entitled to reimbursement at the rate provided for state employees for necessary travel for not to exceed one round trip taken per day between the residence and the place of meeting of the legislative assembly when it is in session and may receive reimbursement for lodging at the place of meeting of the legislative assembly as provided in section 44-08-04 for each calendar day for which round trip travel reimbursement is not claimed, provided that the total reimbursement may not exceed six hundred dollars per month. The amount to which each legislator is entitled must be paid following the organizational session in December and following each month during a regular or special session.

¹⁷ Section 54-03-20 was also amended by section 1 of Senate Bill No. 2053, chapter 434, and section 1 of Senate Bill No. 2051, chapter 433.

A day, or portion of a day, spent in traveling to or returning from an organizational, special, or regular session must be included as a calendar day during a legislative session for the purposes of this section.

In addition, each member is entitled to 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 may 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 must 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)].

¹⁸ **SECTION 2. AMENDMENT.** Subsection 1 of section 54-06-09 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. The sum of twenty-five cents per mile [1.61 kilometers] for each mile [1.61 kilometers] actually and necessarily traveled in the performance of official duty when ~~such~~ the travel is by motor vehicle or twenty-seven cents per mile [1.61 kilometers] if the travel is by truck, the use of which is required by the employing ~~subdivision, agency, bureau, board, or commission~~ entity. The sum of thirty-five cents per mile [1.61 kilometers] for each mile [1.61 kilometers] actually and necessarily traveled in the performance of official duty when ~~such~~ the travel is by private airplane. 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:
 - a. If reimbursement is for one properly authorized and reimbursable passenger, reimbursement must be paid on a per-mile basis as provided in this subsection.
 - b. 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.

¹⁸ Section 54-06-09 was also amended by section 10 of Senate Bill No. 2012, chapter 41.

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. If only one person ~~shall engage~~ engages in such travel in a motor vehicle exceeding at any geographical point one hundred fifty miles [241.40 kilometers] beyond the borders of this state, reimbursement ~~must be~~ is limited to eighteen cents per mile [1.61 kilometers] for the out-of-state portion of the travel beyond the first one hundred fifty miles [241.40 kilometers]. When official travel is by motor vehicle or airplane owned by the state or by any department or political subdivision ~~thereof~~ 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.

SECTION 3. RETROACTIVE APPLICATION. Section 1 of this Act is retroactive in application to January 1, 1997.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 1, 1997
Filed April 2, 1997

CHAPTER 436

SENATE BILL NO. 2213

(Senators Mathern, G. Nelson, Lindaas)
(Representatives Dorso, Boucher, Gulleeson)

COMPUTER USE FEES

AN ACT to create and enact a new section to chapter 54-03 of the North Dakota Century Code, relating to fees for the use of computer equipment and associated software by legislators.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-03 of the North Dakota Century Code is created and enacted as follows:

Personal computers and associated software used by legislators - Fee - Continuing appropriation. Notwithstanding any other provision of law, a member of the legislative assembly who is assigned a computer may use that computer and its associated equipment and software for any use that is not in violation of section 16.1-10-02 upon payment of a computer usage fee established by the legislative council.

Approved April 8, 1997

Filed April 8, 1997

CHAPTER 437**HOUSE BILL NO. 1330**
(Representatives Carlson, Grande)**STATE AGENCY CREDIT CARD PAYMENT**

AN ACT to amend and reenact section 54-06-08.2 of the North Dakota Century Code, relating to payments by credit card to state agencies, boards, commissions, the judicial branch, and political subdivisions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-06-08.2 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-06-08.2. Payment by credit card - State credit card processor. A state agency, board, or commission, the judicial branch, or any political subdivision may accept payment by credit card of any fee, interest, penalty, tax, or other payment that is due or collectible by the agency, board, or commission. ~~To assess and account for the credit card interchange to the respective state agency, board, or commission, the~~ The Bank of North Dakota is the processing depository 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. If on January 1, 1997, any state agency, board, or commission uses a credit card processor other than a credit card processor selected by the Bank of North Dakota, it may continue using that processor until June 30, 1999, or until transition to the state processor is available with minimal fee or penalty, whichever is earlier. The judicial branch may accept payment by credit card for any fees, costs, or other assessments required or imposed under state law or court rule.

Approved April 2, 1997

Filed April 3, 1997

CHAPTER 438**SENATE BILL NO. 2057**

(Senator Lips)

VOLUNTEER PAID LEAVE

AN ACT to create and enact a new section to chapter 54-06 of the North Dakota Century Code, relating to the provision of paid leave for disaster services volunteers; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-06 of the North Dakota Century Code is created and enacted as follows:

Disaster services volunteers - Leave. 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. A person on leave under this section is not deemed to be an employee of the state for the purposes of workers' compensation. 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.

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

Approved April 1, 1997
Filed April 2, 1997

CHAPTER 439

SENATE BILL NO. 2214

(Senators Watne, Traynor, W. Stenehjem)
(Representatives R. Kelsch, Kretschmar, Oban)

INDIGENT CIVIL LEGAL SERVICES FUND ADVISORY COMMITTEE COMPOSITION

AN ACT to amend and reenact section 54-06-20 of the North Dakota Century Code, relating to the composition of the indigent civil legal services fund advisory committee and to the permissible uses and limitations on funds distributed by the committee.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-06-20 of the North Dakota Century Code is amended and reenacted as follows:

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

1. An advisory committee consisting of the lieutenant governor, the ~~attorney general~~ director of the office of management and budget or the ~~attorney general's~~ 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, food stamps, 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.

Approved April 17, 1997

Filed April 17, 1997

CHAPTER 440

SENATE BILL NO. 2138

(Senators Lips, Robinson)
(Representative Stenehjem)

STATE EMPLOYEES COMPENSATION COMMISSION APPOINTMENT

AN ACT to amend and reenact section 54-06-25 of the North Dakota Century Code, relating to the appointment of members to the state employees compensation commission; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁹ **SECTION 1. AMENDMENT.** Section 54-06-25 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

1. The state employees compensation commission shall make recommendations on appropriate levels of state employee compensation and fringe benefits. The commission may not consider conditions of employment other than salary and fringe benefit issues. The ~~commissioner of labor~~ central personnel division shall provide staff services for the commission.
2. The governor or the governor's designee is a member of the commission and serves as chairman. Four members of the legislative assembly appointed by the chairman of the legislative council are members of the commission. Four state employees are members of the commission, three of whom must be members of the classified service of the state and one of whom must be a member of the nonclassified service of the state. The ~~commissioner of labor~~ central personnel division shall conduct the election for the employee representatives. All elected commission members serve for a term of ~~two~~ four years and may be ~~reappointed or~~ reelected for additional terms of office. All appointed commission members serve for a term of two years and may be reappointed for additional terms of office. The state employee members' terms begin on ~~July~~ October first of the year they are elected. The terms of office of members who are members of the legislative assembly and the governor's designee begin on ~~July~~ October first of each odd-numbered year. ~~Of the initial state employees who are elected to the commission, one of the members of the classified service and the member of the nonclassified service must be elected for a one-year term and the other two elected state employees must be elected for a two-year term, and before~~ Before the conclusion of each ~~subsequent~~ term, an election must

¹⁹ Section 54-06-25 was also amended by section 24 of Senate Bill No. 2052, chapter 432.

be held to replace the two members whose terms will end in that year. The terms of those commission members elected on July 1, 1996, expire on September 30, 1999. No more than one employee from the same institution of higher education or agency may serve on the commission at the same time. If two or more employees from the same institution of higher education or agency appear on the ballot at the same time, the employee with the highest vote total is elected to the position. If a member of the commission moves to another agency where another current member of the commission is employed, then the moving member must resign. Vacancies on the commission must be filled by the person who received the next highest vote total in the previous election.

3. The commission shall meet at the call of the chairman as often as may be necessary, but at least once during each year of the biennium. The commission shall consider proper levels of compensation and fringe benefits for state employees and make its recommendations on these issues to the governor in time for consideration in preparation of the executive budget to be submitted to the next legislative assembly. The commission shall also submit its recommendations to the legislative council at the biennial meeting at which the legislative council receives the reports of its interim committees.
4. The members of the legislative assembly who are commission members are entitled to receive compensation from the legislative council for each day in attendance at commission meetings in the same manner as provided in section 54-35-10 for members of the legislative council and reimbursement from the legislative council for travel and other necessary expenses incurred in performing commission duties in the amounts provided for state employees under section 54-06-09. The state employee members of the commission are entitled to receive reimbursement for necessary expenses incurred in attending commission meetings at the rates provided for state employees under section 54-06-09 and may not be assessed any annual leave or loss of salary for attendance at meetings of the commission. The employing agency of state employee members shall pay their expenses.
5. Each member of the classified service may be a candidate for election to the state employees compensation commission. A member of the nonclassified service may be a candidate for election to the commission if the employee occupies a regularly funded and approved position. In order to vote for a candidate in the election to fill a vacancy on the commission, an employee must be a member of the classified service or must occupy a regularly funded and approved position. Student and temporary employees, elected state officials, and appointees of the governor are not eligible to serve on the commission, participate as a candidate for election to the commission, or vote for members of the commission. If after election to the commission, an employee moves from one type of service to another, that employee may continue serving on the commission until the regular expiration of that employee's term.
6. The ~~commissioner of labor~~ central personnel division shall ensure that a notice of an opening on the commission and the election is provided to an officer at each agency and institution. The officer at each agency and institution shall post the notice in a conspicuous place. The notice must include a statement of voter and candidate eligibility, the candidate

nomination requirements, the date of the election, and where to obtain the nomination petitions for filing.

7. In order to be placed on the commission ballot, an employee shall contact the ~~commissioner of labor~~ central personnel division for a petition form. The petition form must be returned to the ~~commissioner of labor~~ central personnel division no more than twenty calendar days after the publishing date of the notice by the ~~commissioner of labor~~ central personnel division with at least one hundred signatures of eligible state employees. Petition forms that are not complete, or are returned after the required date, must be declared void.
8. The ballot must be prepared by the ~~commissioner of labor~~ central personnel division and distributed to each agency and institution payroll officer. An officer of each agency and institution shall provide mailing labels for all qualified employees to the ~~commissioner of labor~~ central personnel division upon the ~~commissioner's~~ division's request. A ballot for the election must be distributed with each employee's payroll check on the employee's regularly scheduled payday.
9. Employees of the ~~commissioner of labor~~ central personnel division shall count the ballots following the final day that the ballots must be returned. Each candidate may have one overseer present at the ballot counting who may examine each ballot as to its sufficiency after the ballot has been counted. A candidate may act as that candidate's overseer. If a candidate wishes to designate a representative to act as that candidate's overseer, the candidate must provide a notarized authorization to the election committee at the counting of ballots. An overseer may act on behalf of more than one candidate; however, the overseer must show required authorization from each candidate represented. The overseer may question the decision of the ballot counters regarding a ballot immediately after the counting of the ballot. If questioned, the comments of the overseer must be heard. The ~~commissioner of labor~~ central personnel division or the ~~commissioner's~~ division's representative shall decide if the complaint is valid and whether the ballot will be accepted. The decision of the ~~commissioner~~ central personnel division or the ~~commissioner's~~ division's representative is final and must be given in writing. Once all ballots have been counted and all questions raised by the overseers have been decided by the ~~commissioner~~ central personnel division or the ~~commissioner's~~ division's representative, the election is closed and results must be declared final. The ~~commissioner of labor~~ central personnel division shall notify all candidates of the election results within ten working days of the election.

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

Approved March 25, 1997
Filed March 26, 1997

CHAPTER 441**SENATE BILL NO. 2187**

(Senators W. Stenehjem, Mathern, G. Nelson)
(Representatives Boucher, Dorso)

STATE EMPLOYEE TELEPHONE USE

AN ACT to create and enact a new section to chapter 54-06 of the North Dakota Century Code, relating to the use of state telephones by state appointed and elected officials and state employees; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-06 of the North Dakota Century Code is created and enacted as follows:

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. When an appointed or elected state official or state employee is away from the official's or employee's residence for official state business and long-distance tolls would apply for the official or employee to call the official's or employee's city of residence, the official or employee is entitled to make at least one long-distance call per day at state expense. Each state agency, department, or institution may establish guidelines defining reasonable and appropriate use of state telephones for essential personal purposes.

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

Approved March 25, 1997
Filed March 25, 1997

CHAPTER 442

HOUSE BILL NO. 1235 (Representative Wardner)

SECRETARY OF STATE DUTIES AND FEES

AN ACT to amend and reenact sections 54-09-02 and 54-09-04 of the North Dakota Century Code, relating to the duties of and fees charged by the secretary of state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-09-02 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-09-02. Duties of secretary of state. In addition to the duties prescribed by the constitution, the secretary of state shall:

1. ~~Attend every session of the legislative assembly for the purpose of receiving~~ Receive bills and resolutions ~~therefrom from every session of the legislative assembly,~~ and shall perform such other duties as may devolve upon the secretary of state by resolution of the two houses, or either of them.
2. Keep a register of and attest the official acts of the governor.
3. Affix the great seal with the secretary of state's attestation to commissions and other public instruments to which the official signature of the governor is required.
4. ~~Record in proper books and maintain records of all conveyances made to the state and all articles of incorporation filed in the secretary of state's office.~~
5. ~~Receive and record in the proper books~~ Record and maintain records of the official bond of any state official who furnishes in lieu of the bond furnished by the state bonding fund a bond by a duly authorized surety company.
6. ~~Take and file receipts~~ Maintain records for all books distributed by the secretary of state and direct the county auditor of each county to do the same as provided by law.
7. Furnish on demand to persons paying the fees therefor a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in the secretary of state's office.
8. ~~Keep a fee book in which must be entered~~ records of all the fees, commissions, and compensation of whatever nature or kind earned, collected, or charged by the secretary of state, with the date, name of payor, and the nature of the services in each case. ~~The book must be verified annually by affidavit of the secretary of state entered therein.~~

9. Biennially report to the governor with copies filed in the secretary of state's office as prescribed by section 54-06-04 all moneys received from any source for services performed, and accompany ~~such~~ the report with a detailed statement under oath of the manner in which the appropriations for the secretary of state's office have been expended during the preceding two fiscal years.
10. Immediately after the laws, resolutions, and journals of the legislative assembly are bound, distribute the laws, resolutions, and journals to the persons entitled thereto by law or rules of the senate and house of representatives.
11. Keep a ~~registry~~ records of cities as prescribed by law.
12. Indicate on each bill passed by the legislative assembly the date of filing in the secretary of state's office.
13. Perform all other duties as are prescribed by law.

SECTION 2. AMENDMENT. Section 54-09-04 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-09-04. Fees. The secretary of state, unless otherwise provided by law, shall charge and collect the following fees:

1. For a copy of any law, resolution, record, or other document or paper on file in the secretary of state's office, one dollar for every four pages or fraction thereof.
2. For affixing the signature of the secretary of state, certificate, or seal, or combination thereof to any document, ten dollars.
3. For filing a certificate of appointment of attorney, five dollars.
4. For any other document signed by the governor, except a commission, and attested by the secretary of state, five dollars.
5. For searching records and archives of the state, five dollars. For the purposes of this section, a search of records conducted by the secretary of state for which a fee must be collected includes the following:
 - a. A search of a filed document that is active or archived, an archived index, or an index of business name changes to identify specific information to satisfy a request;
 - b. A search of any record for which written verification of the facts of the search is required; and
 - c. For every search of records when the request for the search is contained in a list compiled by the requester.

The secretary of state may provide, at no charge, information from publications or reference materials published or maintained by the secretary of state and verbal confirmation of any element of information maintained in a computer data base.

6. For filing any paper not otherwise provided for, ten dollars.
7. For filing utility property transfers, five dollars, and issuing a certificate of filing, five dollars.
8. For sending a copy of a document by electronic transmission, one dollar for each page.
9. For filing any process, notice, or demand for service, twenty dollars.
10. For preparing any listing or compilation of any information recorded or filed in the office of the secretary of state, thirty-five dollars plus the actual cost for assembling and providing the information on the medium requested.

No member of the legislative assembly, and no state or county officer may be charged for any search relative to matters appertaining to duties of office, nor be charged any fee for a certified copy of any law or resolution passed by the legislative assembly relative to the person's official duties. All fees when collected must be paid by the secretary of state into the state treasury at the end of each month and placed to the credit of the state. Unless otherwise provided by statute law, the secretary of state shall retain a handling charge from filing fees tendered when a document submitted to the secretary of state under any law is rejected and not perfected. The handling charge is five dollars or fifty percent of the filing fee, whichever is greater, but may not exceed one hundred dollars. This section does not apply to fees submitted for filing in, or information obtained from, the computerized central notice system, to the computerized Uniform Commercial Code central filing data base, or to the computerized statutory liens data base.

Approved March 13, 1997
Filed March 13, 1997

CHAPTER 443

SENATE BILL NO. 2066

(Appropriations Committee)
(At the request of the State Auditor)

STATE AUDITOR CONTRACTS AND AUDITS

AN ACT to amend and reenact section 54-10-01 of the North Dakota Century Code, relating to payment of state auditor contracts and performance audit standards.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-10-01 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-10-01. Powers and duties of state auditor. The state auditor shall:

1. Be vested with the duties, powers, and responsibilities involved in performing the postaudit of all financial transactions of the state government, detecting and reporting any defaults, and determining that expenditures have been made in accordance with law and appropriation acts.
2. Perform or provide for the audit of the general purpose financial statements and a review of the material included in the comprehensive annual financial report of the state and perform or provide for the audits and reviews of state agencies, including occupational or professional boards provided for by law. The state auditor shall audit or review each state agency once every two years. The state auditor shall determine the contents of the audits and reviews of state agencies. The state auditor may conduct any work required by the federal government. The state auditor shall charge an amount equal to the cost of the audit and other services rendered by the state auditor to all agencies that receive and expend moneys from other than the general fund. This charge may be reduced for any agency that receives and expends both general fund and nongeneral fund moneys. ~~The state auditor shall require any agency in the executive branch of government, which includes an institution of higher education, to pay for a contract for the audit or review of that agency. Except for an audit or review of an occupational or professional board, the state auditor shall execute any contract under this subsection.~~ The governing board of any occupational or professional board shall provide for an audit 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. If the report is in the form and style as prescribed by the state auditor, the state auditor may not audit that board. Alternatively, an occupational or professional board may request the state auditor to do its audit, and if the state auditor agrees to do so, the state auditor shall deposit the fees charged to the occupational or professional board into the state auditor operating account. Audits and reviews may be conducted at more frequent intervals if requested by the governor or legislative audit and fiscal review committee.

3. Perform or provide for performance audits of state agencies as determined necessary by the state auditor or the legislative audit and fiscal review committee. A performance audit ~~must include reviewing elements of compliance, economy and efficiency, and program results to determine whether an agency is complying with applicable laws and legislative intent and is managing its resources efficiently, and whether the agency's programs are achieving desired results~~ must be done in accordance with generally accepted auditing standards applicable to performance audits.
4. For the audits and reviews the state auditor is authorized to perform or provide for under this section, the audit or review may be provided for by contract with a private certified or licensed public accountant or other qualified professional. If the state auditor determines that the audit or review will be done pursuant to contract, the state auditor, except for occupational or professional boards, shall execute the contract, and any executive branch agency, including higher education institutions, shall pay the fees of the contractor.
5. Be responsible for the above functions and report thereon to the governor and the secretary of state in accordance with section 54-06-04 or more often as circumstances may require.
5. 6. Perform all other duties as prescribed by law.

Approved March 19, 1997

Filed March 19, 1997

CHAPTER 444

SENATE BILL NO. 2047

(Legislative Council)
(Legislative Audit and Fiscal Review Committee)
(Senators Solberg, Mutch)
(Representatives Byerly, Maragos, Nichols, Timm)

POLITICAL SUBDIVISION AUDITS

AN ACT to amend and reenact sections 54-10-13, 54-10-14, 54-10-15, and 54-40.1-05 of the North Dakota Century Code, relating to audits of political subdivisions, regional planning councils, and soil conservation districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-10-13 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 2. AMENDMENT. Section 54-10-14 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-10-14. Political subdivisions - Audits - Fees - Alternative audits and reports. The state auditor shall audit the following political subdivisions once every two years, except as provided in this section or otherwise by law:

1. Counties.
2. Cities.
3. Park districts.
4. School districts.
5. ~~Firemen's~~ Firefighters relief associations.
6. Airport authorities.
7. Public libraries.
8. Water resource districts.
9. Garrison diversion conservancy district.
10. Rural fire protection districts.
11. Special education districts.

12. Area vocational and technology centers.
13. Correction centers.
14. Recreation service districts.
15. Weed boards.
16. Irrigation districts.
17. Rural ambulance service districts.
18. ~~West river water supply district.~~
19. Southwest water authority.
19. Regional planning councils.
20. Soil conservation districts.

The state auditor shall charge the political subdivision an amount equal to the fair value of the audit and any other services rendered. ~~Fees~~ The political subdivision audited shall pay to the state treasurer the fees for the audit performed by the state auditor ~~must be paid to the state treasurer by the political subdivision audited.~~ The state treasurer shall deposit the fees ~~must be deposited~~ in the state auditor operating account. Expenses relating to political subdivision audits must be paid from the state auditor operating account, within the limits of legislative appropriation.

~~The state auditor may in~~ In lieu of conducting an audit every two years, the state auditor may require annual reports from school districts with less than one hundred enrolled students, cities with less than three hundred population, and other political subdivisions subject to this section, or otherwise provided by law, with less than one hundred thousand dollars of annual receipts. The reports must contain the financial information required by the state auditor. The state auditor ~~may~~ may also may make ~~such any~~ any additional examination or audit ~~as deemed~~ determined necessary in addition to the annual report. When a report is not filed, the state auditor may charge the political subdivision an amount equal to the fair value of the additional examination or audit and any other services rendered. The state auditor may charge a political subdivision a fee not to exceed fifty dollars an hour for the costs of reviewing the annual report.

A political subdivision ~~may~~, at the option of its governing body, may be audited by a certified public accountant or licensed public accountant rather than by the state auditor. The public accountant shall comply with generally accepted government auditing standards for audits of political subdivisions. The report must be in the form and content required by the state auditor. The number of copies of the audit report requested by the state auditor must be filed with the state auditor when the public accountant delivers the audit report to the political subdivision. The state auditor shall review the audit ~~reports~~ report to determine if the ~~reports are~~ report is in the required form and ~~have~~ has the required content, and if the audit meets generally accepted government auditing standards. The state auditor ~~may~~ also may periodically review the public accountant's workpapers to determine if the audit meets generally accepted government auditing standards. If the ~~reports are~~ report is in the required form and ~~have~~ has the required content, and the ~~reports~~ report and workpapers comply with generally accepted government auditing

standards, the state auditor shall accept the audit report. The state auditor may charge the political subdivision a fee of up to fifty dollars an hour, but not to exceed five hundred dollars per review, for the related costs of reviewing the audit report and workpapers.

A political subdivision may not pay a public accountant for an audit until the state auditor has accepted the audit. However, a political subdivision may make progress payments to the public accountant. A political subdivision shall retain twenty percent of any progress payment until the audit report is accepted by the state auditor.

The state auditor may require the correction of any irregularities, objectionable accounting procedures, or illegal actions on the part of the governing board, officers, or employees of the political subdivision disclosed by the audit report or workpapers, and failure to make the corrections shall result in audits being resumed by the state auditor until the irregularities, objectionable accounting procedures, or illegal actions are corrected.

SECTION 3. AMENDMENT. Section 54-10-15 of the North Dakota Century Code is amended and reenacted as follows:

54-10-15. Audits of political subdivisions by order of governor or the legislative audit and fiscal review committee, or upon petition. The state auditor, by duly appointed deputy auditors or other authorized agents, shall audit or review the books, records, and financial accounts of any political subdivision when ordered by the governor or the legislative audit and fiscal review committee, requested by the governing board, or upon petition of at least thirty-five percent of the qualified electors of any political subdivision enumerated in section 54-10-14 voting for the office of governor at the preceding general election or, in the case of school districts, upon petition of at least thirty-five percent of the qualified electors voting at the preceding school board election. Fees for the audits must be paid in accordance with the provisions of section 54-10-14.

SECTION 4. AMENDMENT. Section 54-40.1-05 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-40.1-05. Reports. Each regional council shall prepare an annual report within sixty one hundred twenty days after the end of each fiscal year. Copies ~~The regional council shall submit copies~~ of the report ~~must be submitted~~ to the participating units of general local government, to the governor or the governor's designee, and to members of the legislative assembly in each region. To the extent practicable, the report must include projects completed or in progress and sources of funding.

Approved April 11, 1997
Filed April 11, 1997

CHAPTER 445

SENATE BILL NO. 2023

(Legislative Council)
(Budget Section)
(Senators Nething, Goetz)
(Representatives Dalrymple, Hausauer)

BUDGET SECTION POWERS AND DUTIES

AN ACT to amend and reenact section 50-06.4-04, subsection 3 of section 50-24.1-01.3, and section 54-16-04 of the North Dakota Century Code, relating to appropriation authority and the powers and duties of the budget section of the legislative council; and to repeal sections 52-02.1-05, 54-14-01.1, and 57-01-11.1 of the North Dakota Century Code, chapter 63 of the 1989 Session Laws, and section 11 of chapter 22 of the 1993 Session Laws, relating to the office of the budget and the powers and duties of the budget section of the legislative council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-06.4-04 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

50-06.4-04. Authority to accept and expend grants, gifts, and services - ~~Continuing appropriation - Budget section approval.~~ The department may apply for and accept any funds, grants, gifts, or services made available for the purpose of providing or coordinating services to persons with traumatic brain injury by any federal agency or department or any private agency or individual. Funds received by the department under this section must be deposited in the state treasury in a special fund designated as the traumatic brain injury fund and may be spent within the limits of legislative appropriation. ~~There is hereby appropriated out of the traumatic brain injury fund any moneys that may become available under this section for the purposes of carrying out this chapter. No moneys may be expended from the fund without prior approval of the budget section of the legislative council.~~

SECTION 2. AMENDMENT. Subsection 3 of section 50-24.1-01.3 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. The state treasurer shall establish a fund for the receipt of any civil money penalties imposed under subsection 1. Any civil money penalty paid to the department of human services under subsection 1 must be deposited in that fund; ~~and is hereby appropriated to the department of human services, subject to the approval of the budget section of the legislative council,~~ and, subject to the limits of legislative appropriation, may be expended for the sole purpose of the protection of the health or property of residents of nursing facilities that the state or federal government finds deficient.

SECTION 3. AMENDMENT. Section 54-16-04 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-16-04. May order transfer of moneys between funds - Line item transfers - Order may draw from state treasury. A state officer may present to the emergency commission an itemized, verified petition requesting approval of a transfer of spending authority from the state contingencies appropriation, a transfer of money or spending authority between funds or line items, or expenditure of federal funds. The emergency commission shall request and receive information from the director of the office of management and budget regarding the petition. If the emergency commission finds that an emergency exists, the emergency commission may order money or spending authority transferred from one fund or line item to another fund or line item belonging to or appropriated for the same institution or board or the same state enterprise, may order a transfer of spending authority from the state contingencies appropriation, may authorize expenditure of federal funds, or in an extremity may authorize money to be drawn from the state treasury to meet the emergency until the legislative assembly can make an appropriation available. The following transfers may not be authorized by the emergency commission without approval by the budget section of the legislative council: ;

1. ~~A transfer of spending authority from the state contingencies appropriation after the aggregate amount transferred from that appropriation during the biennium exceeds five hundred thousand dollars.~~
2. A transfer of moneys or spending authority which would eliminate or make impossible the accomplishment of a program or objective funded by the legislative assembly.
3. 2. A transfer exceeding fifty thousand dollars from one fund or line item to another fund or line item, unless the transfer is necessary to comply with a court order or to avoid:
 - a. An imminent threat to the safety of people or property due to a natural disaster or war crisis; or
 - b. An imminent financial loss to the state.

SECTION 4. REPEAL. Sections 54-14-01.1 and 57-01-11.1 of the North Dakota Century Code, section 52-02.1-05 of the 1995 Supplement to the North Dakota Century Code, chapter 63 of the 1989 Session Laws, and section 11 of chapter 22 of the 1993 Session Laws are repealed.

Approved April 1, 1997
Filed April 2, 1997

CHAPTER 446

SENATE BILL NO. 2347

(Senator Nething)
(Representative Dalrymple)

STATE AGENCY DISASTER BORROWING

AN ACT to authorize the adjutant general to borrow funds to respond to disasters; to create and enact a new section to chapter 54-16 of the North Dakota Century Code, relating to authorizing state agencies to borrow funds for disasters; to amend and reenact section 54-16-08 of the North Dakota Century Code, relating to state contingencies appropriation; to provide an appropriation; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-16 of the North Dakota Century Code is created and enacted as follows:

Authority to borrow funds for a disaster - Continuing appropriation. Any board, agency, commission, or officer of the state, subject to the approval of the emergency commission, may borrow moneys from the Bank of North Dakota for the purpose of responding to a disaster within the state as declared by the governor pursuant to chapter 37-17.1. The amount of moneys borrowed is limited to the amount of any estimated federal reimbursement for repair, recovery, or response relating to a disaster within the state, unless the state contingencies appropriation is inadequate to pay the estimated state share of the costs, then moneys may be borrowed up to one hundred percent of the costs incurred by the agency. Any interest payments on the funds borrowed must be paid from funds available to the agency from the state contingencies appropriation as authorized by the emergency commission or other funds as authorized by the emergency commission. Any moneys borrowed from the Bank of North Dakota pursuant to this section are hereby appropriated and may be spent by the board, agency, commission, or officer of this state for the repair, recovery, or response relating to a disaster within the state. If it appears to the borrower that at the end of the biennium the amount available to repay the amount borrowed plus interest is insufficient to totally repay the Bank of North Dakota, the borrower shall request from the legislative assembly a deficiency appropriation sufficient for the repayment of the amount borrowed plus interest.

SECTION 2. AMENDMENT. Section 54-16-08 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-16-08. State contingencies appropriation. The legislative assembly may appropriate moneys to the office of management and budget for state contingencies as provided in this chapter. Any state agency, board, commission, or officer authorized by the emergency commission to spend moneys from the state contingencies appropriation must return any unspent moneys of the appropriation within the biennium that it was authorized.

SECTION 3. Adjutant general - Authority to borrow funds. The adjutant general may borrow funds from the Bank of North Dakota for the purpose of responding to a disaster within the state as declared by the governor pursuant to

chapter 37-17.1 in an amount not to exceed \$575,000 for the period beginning with the effective date of this Act and ending June 30, 1997. The Bank of North Dakota loans must be repaid from federal reimbursements relating to the disaster or other funds available to the adjutant general or by utilizing other procedures as authorized by the governor. Any accrued interest on the loans must be repaid from funds authorized to be spent from the state contingencies appropriation available to the adjutant general or other funds as authorized by the emergency commission.

SECTION 4. APPROPRIATION. There is hereby appropriated from special funds, derived from loan proceeds authorized under section 3 of this Act, the sum of \$575,000, or so much of the sum as may be necessary, to the adjutant general for the purpose of repair, recovery, or response relating to a disaster within the state as declared by the governor pursuant to chapter 37-17.1 for the period beginning with the effective date of this Act and ending June 30, 1997. The adjutant general may transfer appropriation authority provided in this section to the various line items of section 1 of chapter 39 of the 1995 Session Laws as authorized by the director of the office of management and budget to restore funds already spent for responding to the disaster within the state.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure.

Approved February 17, 1997
Filed February 17, 1997

CHAPTER 447**SENATE BILL NO. 2077**

(Political Subdivisions Committee)

(At the request of the State Housing Finance Agency)

HOUSING FINANCE AGENCY GRANTS

AN ACT to create and enact a new subsection to section 54-17-07.3, relating to housing grants by the housing finance agency; and to amend and reenact subsection 1 of section 54-17-07.3 of the North Dakota Century Code, relating to financial assistance authorized under the housing finance agency's home mortgage finance program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 54-17-07.3 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Home mortgage finance program. A program or programs to provide financing or refinancing of loans made by lenders, including second mortgage loans and leasehold mortgage loans on tribal trust or other reservation lands, and leasehold mortgage loans that are insured or guaranteed through an affordable housing program, to persons or families of low and moderate income for the purchase or substantial rehabilitation of owner occupied, single-family residential dwelling units, which includes mobile homes and manufactured housing.

SECTION 2. A new subsection to section 54-17-07.3 of the 1995 Supplement to the North Dakota Century Code is created and enacted as follows:

Housing grant program. A program or programs to provide grants other than those authorized by section 54-17-07.6 to encourage and promote housing availability for persons of low or moderate income.

Approved March 5, 1997
Filed March 6, 1997

CHAPTER 448

SENATE BILL NO. 2111

(Appropriations Committee)

(At the request of the Industrial Commission)

STUDENT LOAN BONDS

AN ACT to amend and reenact sections 54-17-24, 54-17-25, and 54-17-26 of the North Dakota Century Code, relating to the student loan trust and to the refunding and sale of bonds issued by the industrial commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

54-17-24. State trusts created. The industrial commission is hereby authorized and directed to acquire and to hold in ~~separate~~ one or more 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 must be held in special funds as the source of payment of bonds of North Dakota to be issued, none of which bonds may 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.

²⁰ **SECTION 2. AMENDMENT.** Section 54-17-25 of the North Dakota Century Code is amended and reenacted 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 income taxes, as the commission shall determine to be for the public good. The commission may refund and refinance the bonds from time to time as often as it is advantageous and in the public interest to do so. The bonds shall be a paramount charge upon a sufficient designated portion of the resources of

²⁰ Section 54-17-25 was also amended by section 9 of House Bill No. 1155, chapter 94.

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 must have all of the qualities and incidents of negotiable paper and are not subject to taxation by the state of North Dakota or by any county, municipality, or political subdivision therein. The bonds must 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 must respectively so recite. They are not 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 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.

SECTION 3. AMENDMENT. Section 54-17-26 of the North Dakota Century Code is amended and reenacted as follows:

54-17-26. Bonds eligible for investment - Sale of bonds. Bonds issued under section 54-17-25 may be acquired and held by banks and by savings and loan associations of this state as well as by all public trust funds. They may be issued and sold at public or private sale or by negotiation as the industrial commission may direct and the commission may make, enter into, and enforce all contracts or agreements necessary, convenient, or desirable for the purposes of the commission or pertaining to any purchase or sale of the bonds or other investments or to the performance of its duties and execution or carrying out of any of its powers under section 54-17-25.

Approved March 11, 1997
Filed March 13, 1997

CHAPTER 449

SENATE BILL NO. 2398

(Senators Andrist, Christmann, Krebsbach, Lindaas, Wanzek)

FARM FINANCING ASSISTANCE

AN ACT to create and enact six new sections to chapter 54-17 of the North Dakota Century Code, relating to the tax-exempt financing of farmland, livestock, and farm equipment through the industrial commission; and to amend and reenact subdivision I of subsection 1 of section 28-32-01 of the North Dakota Century Code, relating to the definition of an administrative agency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²¹ **SECTION 1. AMENDMENT.** Subdivision I of subsection 1 of section 28-32-01 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- I. The industrial commission with respect to the activities of the Bank of North Dakota, the North Dakota housing finance agency, the North Dakota municipal bond bank, ~~and~~ the North Dakota mill and elevator association, and the North Dakota farm finance agency.

SECTION 2. A new section to chapter 54-17 of the North Dakota Century Code is created and enacted as follows:

Definitions. As used in sections two through seven of this Act:

1. "First-time farmer" means an individual who is a North Dakota resident who has not at any time had any direct or indirect ownership interest in substantial farmland in the operation of which the individual materially participated, who will be the principal user of the farmland, and who will materially and substantially participate on the farm of which the land is a part in the operation of the farm.
2. "Substantial farmland" means any parcel of land unless the parcel is smaller than thirty percent of the median size of a farm in the county in which the parcel is located and does not at any time while held by the individual have a fair market value in excess of one hundred twenty-five thousand dollars.

SECTION 3. A new section to chapter 54-17 of the North Dakota Century Code is created and enacted as follows:

²¹ Section 28-32-01 was also amended by section 7 of Senate Bill No. 2033, chapter 182; section 8 of Senate Bill No. 2336, chapter 157; section 1 of House Bill No. 1042, chapter 278; section 6 of Senate Bill No. 2045, chapter 115; section 1 of House Bill No. 1183, chapter 451; section 2 of House Bill No. 1158, chapter 277; and section 24 of Senate Bill No. 2046, chapter 51.

Farm finance program. Acting as the farm finance agency, the industrial commission may establish the first-time farmer finance program to encourage first-time farmers to enter into and remain in the livelihood of agriculture and to provide first-time farmers a source of financing at favorable rates and terms generally not available to them. The first-time farmer finance program is established to allow first-time farmers to utilize the tax-exempt financing provided for in the Internal Revenue Code of 1986, and any amended regulations adopted thereunder.

SECTION 4. A new section to chapter 54-17 of the North Dakota Century Code is created and enacted as follows:

First-time farmer participation. The first-time farmer finance program is limited as required by applicable provisions of the Internal Revenue Code of 1986 and any regulations adopted thereunder, as amended, and under the first-time farmer finance program:

1. Financing may not be made to individuals with a net worth of more than two hundred thousand dollars;
2. Financing may not be made to an individual in an aggregate amount in excess of two hundred fifty thousand dollars; and
3. Financing may only be made to first-time farmers for the acquisition of land in the state of North Dakota, livestock, farm improvements, and equipment to be used for farming purposes.

SECTION 5. A new section to chapter 54-17 of the North Dakota Century Code is created and enacted as follows:

Financing. Financing may be accomplished by the issuance of evidences of indebtedness by the industrial commission acting as the farm finance agency and the entering into of a financing agreement between the industrial commission acting as the farm finance agency and lenders or individuals. Any financing agreement entered into between the industrial commission and any lender or individual is payable as to principal and interest only from the payments made thereon by the first-time farmer, and the financing agreement and any evidence of indebtedness may not constitute a debt of the state of North Dakota or any agency or instrumentality thereof within the meaning of any constitutional or statutory debt limit.

SECTION 6. A new section to chapter 54-17 of the North Dakota Century Code is created and enacted as follows:

Policies. Before exercising any of its powers as the farm finance agency pursuant to subsection 2 of section 54-17-09, the industrial commission shall adopt policies and rules relating to any or all of the following:

1. Procedures and documentation for the submission of requests for financing; and
2. Provisions necessary for compliance with the Internal Revenue Code of 1986 and any regulations adopted thereunder, as amended.

SECTION 7. A new section to chapter 54-17 of the North Dakota Century Code is created and enacted as follows:

Financing exempt from taxation - Exception. Evidences of indebtedness issued under the provisions of the first-time farmer finance program, and the interest therefrom, is exempt from any taxes of the state, except inheritance, estate, and transfer taxes.

Approved March 7, 1997
Filed March 7, 1997

CHAPTER 450**HOUSE BILL NO. 1133**

(Natural Resources Committee)

(At the request of the Industrial Commission)

LIGNITE RESEARCH FUND APPLICATIONS

AN ACT to amend and reenact section 54-17.5-03 of the North Dakota Century Code, relating to evaluating applications for funding from the lignite research fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-17.5-03 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-17.5-03. Priority projects, processes, and activities. In evaluating applications for funding from the lignite research fund for North Dakota's lignite research, development, and marketing program, the industrial commission and lignite research council shall give priority to those projects, processes, or activities that will preserve existing jobs and production, which will create the greatest number of new jobs and most additional lignite production and economic growth potential in coal-producing counties or those counties with recoverable coal reserves, which will attract matching private industry investment equal to at least fifty percent or more of the total cost, and which will result in development and demonstration of a marketable lignite product or products with a high level of probability of rapid near term commercialization ~~by the year 2000 or before~~. For marketing applications, priority must be given to those projects, processes, or activities that develop baseline information, implement specific marketing strategies, and otherwise contribute to the effective marketing of lignite and its products ~~by the year 2000 or before~~. For reclamation applications, priority must be given to those projects, processes, or activities that will reduce unnecessary regulatory costs and assist in effectively reclaiming surface mined land to its original or better productivity as soon as possible. Any projects, activities, or processes selected by the commission for funding must achieve the priorities and purposes of the program, must have undergone technical review and be determined to have technical merit, must have generated matching private industry investment, and must have received a favorable lignite research council recommendation.

Approved March 7, 1997

Filed March 10, 1997

CHAPTER 451

HOUSE BILL NO. 1183

(Representative DeKrey)
(Senator B. Stenehjem)

CAPITOL GROUNDS CONDUCT RULES

AN ACT to amend and reenact subdivision a of subsection 1 of section 28-32-01 and section 54-21-18 of the North Dakota Century Code, relating to adoption of administrative rules concerning conduct on the state capitol grounds; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²² **SECTION 1. AMENDMENT.** Subdivision a of subsection 1 of section 28-32-01 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- a. The office of management and budget except with respect to rules relating to conduct on the capitol grounds and in buildings located on the capitol grounds under section 54-21-18, rules relating to the state building code as authorized or required under section 54-21.3-03, rules relating to the Model Energy Code as required under section 54-21.2-03, rules relating to the central personnel system as authorized under section 54-44.3-07, rules relating to state purchasing practices as required under section 54-44.4-04, rules relating to records management as authorized or required under chapter 54-46, and rules relating to the central microfilm unit as authorized under chapter 54-46.1.

SECTION 2. AMENDMENT. Section 54-21-18 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-21-18. Custody of office building - Considered part of capitol building - Director has control of public property - Rules - Penalty. The director of the office of management and budget shall control, manage, and maintain the state office building. The building must be considered a part of the state capitol building within the meaning of statutes relating to the custody, maintenance, and control of the state capitol building and grounds, and within the meaning of statutes requiring state departments or agencies to maintain their offices in the state capitol building.

²² Section 28-32-01 was also amended by section 1 of Senate Bill No. 2398, chapter 449; section 7 of Senate Bill No. 2033, chapter 182; section 8 of Senate Bill No. 2336, chapter 157; section 1 of House Bill No. 1042, chapter 278; section 6 of Senate Bill No. 2045, chapter 115; section 2 of House Bill No. 1158, chapter 277; and section 24 of Senate Bill No. 2046, chapter 51.

Except as otherwise provided by law, the director ~~shall have~~ of the office of management and budget has charge and control of the executive mansion, the capitol, and the park and public grounds connected therewith. Except as provided by sections 39-10-48 and 39-10-50, the director may adopt rules to promote the health, safety, and general welfare, to prohibit disturbances and disorderly assemblies, to keep the peace, and to regulate nuisances on the capitol grounds and in any of the buildings located on the capitol grounds. The rules may include regulation of public assemblies and accessibility to the buildings and grounds, obstructions, fees, insurance, forms, indemnification by users, and waiver of insurance and indemnity requirements by the director. A person who violates a rule adopted by the director under this section is guilty of an infraction.

Approved April 1, 1997

Filed April 2, 1997

CHAPTER 452

HOUSE BILL NO. 1162

(Representative Maragos)

(Senator Nalewaja)

(At the request of the Department of Corrections and Rehabilitation)

CRIME VICTIMS COMPENSATION CLAIMS AND BENEFITS

AN ACT to create and enact three new subsections to section 54-23.4-10 of the North Dakota Century Code, relating to closure of crime victims compensation claims; to amend and reenact sections 54-23.4-01, 54-23.4-03, 54-23.4-06, 54-23.4-11, and 54-23.4-12 of the North Dakota Century Code, relating to definitions, award of benefits, attorney's fees, and subrogation for purposes of crime victims compensation; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-23.4-01 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-23.4-01. Definitions. As used in this chapter, unless the context or subject matter otherwise requires:

1. "Bodily injury" means any harm that requires medical treatment and results in economic loss and includes pregnancy and nervous shock.
2. "Claimant" means a victim, a dependent of a deceased victim, or a representative of either, who claims compensation under this chapter.
3. "Collateral source" means a source of benefits or advantages for economic loss otherwise reparable under this chapter which the claimant has received, or which is readily available to the claimant. ~~Social service benefits are not a collateral source unless the claimant was receiving these benefits prior to the injury.~~ The first twenty-five thousand dollars of a life insurance policy are not a collateral source if they are payable to a dependent beneficiary or to a parent, legal guardian, or conservator of a dependent victim.
4. "Criminally injurious conduct" means conduct that ~~occurs in or outside this state~~, results in bodily injury or death, and is punishable by fine, imprisonment, or death, or would be so punishable but for the fact that the person engaging in the conduct was a minor or lacked capacity to commit the crime ~~under the laws of this state~~. The term includes an act of terrorism, as defined under Public Law No. 102-572 [106 Stat. 4506; 18 U.S.C. 2331], committed outside of the United States against a resident of this state. The term does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle except when intended to cause personal injury or death or when the division determines that the conduct ~~arose out of the use of intoxicating liquor or controlled substances as provided in section 39-08-01 or the conduct was followed by failure to stop or to give information and render aid as~~

provided in sections ~~39-08-04~~ and ~~39-08-06~~ was in violation of section 12.1-16-02, 12.1-16-03, 39-08-01, 39-08-03, 39-08-04, or 39-08-06.

5. "Dependent" means a natural person wholly or partially dependent upon a victim for care or support and includes a child of a victim born after the victim's death.
6. "Division" means the division of adult services of the department of corrections and rehabilitation.
7. "Economic loss" means economic detriment consisting only of allowable expense, work loss, replacement services loss, and, if injury causes death, dependent's economic loss and dependent's replacement services loss. Noneconomic detriment is not loss. The term includes economic detriment caused by pain and suffering or physical impairment.
 - a. "Allowable expense" means reasonable charges incurred for reasonably needed products, services, and accommodations required due to the injury, including those for medical care, rehabilitation, rehabilitative occupational training, and other remedial treatment and care. The term includes a total charge not in excess of ~~one three thousand five hundred~~ one thousand five hundred dollars for expenses in any way related to funeral, cremation, and burial. The term does not include that portion of a charge for a room in a hospital, clinic, convalescent or nursing home, or any other institution engaged in providing nursing care and related services, in excess of a reasonable and customary charge for semiprivate accommodations, unless the excess represents costs of other accommodations that are medically required.
 - b. "Dependent's economic loss" means loss after a victim's death of contributions of things of economic value to a victim's dependent, not including services the dependent would have received from the victim if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of the victim's death.
 - c. "Dependent's replacement services loss" means loss reasonably incurred by a dependent after a victim's death in obtaining ordinary and necessary services in lieu of those the victim would have performed for the dependent's benefit if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of the victim's death and not subtracted in calculating dependent's economic loss.
 - d. "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage.
 - e. "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the victim would have performed, not for income but for the benefit of the victim or the victim's family, if the victim had not been injured.
 - f. "Work loss" means loss of income from work the victim would have performed if the victim had not been injured, and expenses reasonably incurred by the victim in obtaining services in lieu of those the victim would have performed for income, reduced by any

income from substitute work actually performed by the victim or by income the victim would have earned in available appropriate substitute work the victim was capable of performing but unreasonably failed to undertake.

8. "Victim" means a person who suffers bodily injury or death as a result of criminally injurious conduct, the good faith effort of any person to prevent criminally injurious conduct, or the good faith effort of any person to apprehend a person suspected of engaging in criminally injurious conduct. The term includes a resident of this state who is injured or killed by an act of terrorism, as defined under Public Law No. 102-572 [106 Stat. 4506; 18 U.S.C. 2331], committed outside of the United States. The term does not mean a person who suffers bodily injury or death as a result of operating a motor vehicle, when, at the time of the injury or death, the person was not in compliance with applicable state laws and rules concerning motor vehicle insurance coverage and the person was at least partially at fault for causing the accident.

SECTION 2. AMENDMENT. Section 54-23.4-03 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-23.4-03. No award paid to inmates. The division may not make an award of any kind under this chapter to a victim convicted of a crime and injured while confined in ~~any state, county, or city~~ a jail, prison, or other correctional facility.

SECTION 3. AMENDMENT. Section 54-23.4-06 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-23.4-06. Application for compensation - Awards - Limitations on awards.

1. An applicant for an award of compensation shall apply in writing in a form that conforms substantially to that prescribed by the division. If a resident of this state is a victim of criminally injurious conduct, but the criminally injurious conduct occurred outside the geographical boundaries of this state, the resident has the same rights under this chapter as if the criminally injurious conduct occurred within this state upon a showing that the state, territory, country, or political subdivision of the country in which the criminally injurious conduct occurred does not have a crime victims compensation law which covers the bodily injury or death of the victim.
2. A claim for compensation must be filed within one year ~~after the date of injury or death. When the division cannot determine with certainty the date of injury, then the date of injury is the first date that a reasonable person should have known that the injury resulted from criminally injurious conduct from the date the criminally injurious conduct was reported to a law enforcement officer.~~ The division may extend the time for filing when if it determines that the interests of justice so require. There is no appeal from a decision of the division not to extend the filing time, not to reopen, or not to reinvestigate a claim.
3. Compensation may not be awarded to a claimant who is the offender or an accomplice of the offender, nor to any claimant if the award would unjustly benefit the offender or an accomplice.

4. Compensation may not be awarded unless the criminally injurious conduct resulting in injury or death was reported to a law enforcement officer within seventy-two hours after its occurrence or the division finds there was good cause for the failure to report within that time. In the case of child abuse or sexual molestation of a child, the criminally injurious conduct must be reported to a law enforcement officer within three years after the child reaches the age of majority.
5. The division, upon finding that the claimant has not fully cooperated with appropriate law enforcement agencies, may deny, reconsider, or reduce an award of compensation.
6. Compensation otherwise payable to a claimant must be reduced or denied:
 - a. To the extent the economic loss upon which the claim is based is recouped from other persons, including collateral sources;
 - b. To the extent the division deems reasonable because of the contributory misconduct of the claimant or of a victim on whose behalf compensation is claimed; and
 - c. To the extent the division deems reasonable when it is determined that a victim was under the influence of an alcoholic beverage or a controlled substance at the time the criminally injurious conduct occurred and the victim's intoxication was a factor causing the criminally injurious conduct.
7. Compensation for work loss, replacement services loss, dependent's economic loss, and dependent's replacement services loss may not exceed three hundred dollars per week.
8. Compensation payable to a victim and to all other claimants sustaining economic loss because of injury to or death of that victim may not exceed twenty-five thousand dollars in the aggregate. If a resident of this state is the victim of criminally injurious conduct outside the geographical boundaries of this state and the total amount of crime victims compensation benefits payable where the criminally injurious conduct occurred is less than twenty-five thousand dollars, the division may pay additional compensation to the victim. The maximum additional compensation the division may pay is the difference between twenty-five thousand dollars and the total amount of crime victims compensation benefits payable where the criminally injurious conduct occurred.

SECTION 4. Three new subsections to section 54-23.4-10 of the 1995 Supplement to the North Dakota Century Code are created and enacted as follows:

A claim for crime victims compensation benefits is presumed closed if the division has not paid any benefit or received a demand for payment of benefits for a period of five years from the date a payment was last made on a claim. A claim that is presumed closed may not be reopened for payment of any further benefits unless the presumption is rebutted by a preponderance of the evidence that the criminally injurious conduct is the principal cause of the current symptoms.

A claim for crime victims compensation benefits must be closed ten years after benefits have last been paid and may not be reopened.

This section applies to all claims for crime victims compensation benefits, irrespective of the date of the criminally injurious conduct.

SECTION 5. AMENDMENT. Section 54-23.4-11 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-23.4-11. Attorney's fees. ~~As part of an order, the~~ The division shall determine and award reasonable attorney's fees, commensurate with services rendered, to be paid by the state to the attorney representing the claimant. ~~Additional attorney's fees may be awarded by a court in the event of review. Attorney's fees may be denied on a finding that the claim or appeal is frivolous or that the appeal was unsuccessful if the claimant prevails after a petition for reconsideration or rehearing under section 28-32-14 from an order reducing or denying crime victims compensation benefits. A district court may award attorney's fees in an appeal pursuant to section 28-32-15 if the claimant prevails on appeal from an order reducing or denying benefits. Attorney's fees are allowable for settlement of a disputed claim.~~ Attorney's fees are not allowable for assisting a claimant in filing a claim. An award of attorney's fees is in addition to an award of compensation ~~and may be made whether or not compensation is awarded.~~ An award of attorney's fees may not exceed the lesser of twenty percent of the compensation awarded or one thousand dollars. No attorney may contract for or receive any larger sum than the amount allowed.

SECTION 6. AMENDMENT. Section 54-23.4-12 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-23.4-12. Subrogation - Actions - Allocation of expenses.

1. If compensation is awarded, the ~~state~~ division is subrogated to all the claimant's rights to receive or recover benefits or advantages, for economic loss for which and to the extent only that compensation is awarded, from a source that is, or, if readily available to the claimant, would be, a collateral source.
2. ~~As a prerequisite~~ Prior to bringing an action to recover damages related to criminally injurious conduct for which compensation is claimed or awarded, the claimant shall give the division ~~prior~~ written notice of the proposed action. ~~After receiving the notice, the division shall promptly:~~
 - a. ~~Join in the action as a party plaintiff to recover compensation awarded;~~
 - b. ~~Require the claimant to bring the action in the claimant's individual name, as a trustee in behalf of the state, to recover compensation awarded; or~~
 - c. ~~Reserve its rights and do neither in the proposed action.~~

~~If, as requested by the division, the claimant brings the action as trustee and recovers compensation awarded by the division, the claimant may deduct from the compensation recovered in behalf of the state the reasonable expenses, including attorney's fees, allocable by the court for~~

~~that recovery.~~ If a claimant brings an action for the recovery of damages related to criminally injurious conduct for which compensation is claimed or awarded, the division is subrogated to the rights of the claimant up to the total amount the division has paid. When there has been a recovery of damages, the costs of the action, to be paid by the division from the recovery, exclusive of attorney's fees, must be prorated and adjusted on the percentage of the total subrogation interest of the division recovered to the total recovery. If there is a recovery, the division shall pay attorney's fees to the claimant's attorney from the recovery in the amount of twenty-five percent of the subrogation interest recovered. For purposes of this section, recovery includes proceeds paid pursuant to a settlement, confession of judgment, or judgment of a court. The division may intervene in the action to recover compensation awarded. The division has a lien on a recovery to the extent it has paid compensation.

3. If a judgment or verdict indicates separately economic loss and noneconomic detriment, payments on the judgment must be allocated between them in proportion to the amounts indicated. In an action in a court of this state arising out of criminally injurious conduct, the judge, on timely motion, shall direct the jury to return a special verdict, indicating separately the awards for noneconomic detriment, punitive damages, and economic loss.

SECTION 7. EFFECTIVE DATE. This Act is effective August 1, 1997, for all claims for crime victims compensation benefits, irrespective of the date of the criminally injurious conduct or the date of application for crime victims compensation benefits.

Approved March 27, 1997
Filed March 27, 1997

CHAPTER 453

HOUSE BILL NO. 1035

(Legislative Council)
(Budget Committee on Government Services)
(Representatives Martin, Sveen)
(Senator St. Aubyn)

LIBRARY COORDINATING COUNCIL

AN ACT to create and enact chapter 54-24.4 of the North Dakota Century Code, relating to the North Dakota library coordinating council; to amend and reenact sections 54-24-02, 54-24-03, 54-24-09, 54-24.3-01, 54-24.3-03, 54-24.3-04, 54-24.3-05, 54-24.3-06, 54-24.3-07, 54-24.3-08, 54-24.3-09, 54-24.3-10, 54-24.3-11, 54-24.3-12, 54-24.3-13, 54-24.3-14, 54-24.3-15, and 54-24.3-16 of the North Dakota Century Code, relating to the state library and multitype library authorities; to repeal sections 54-24-07 and 54-24.3-02 of the North Dakota Century Code, relating to state library printing costs and the statewide library planning committee; and to provide appropriations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-24-02 of the North Dakota Century Code is amended and reenacted as follows:

54-24-02. Library offices. The state library must be furnished with adequate office room, with such suitable quarters as may be necessary for the proper shelving of ~~the educational reference~~ its library; ~~the books of the traveling libraries~~; and ~~the legislative reference collection~~ materials.

SECTION 2. AMENDMENT. Section 54-24-03 of the North Dakota Century Code is amended and reenacted as follows:

54-24-03. Powers and duties of state librarian. The state librarian shall:

1. Make rules for the operation of the state library.
2. Provide and care for all books and library materials in all collections of the state library; ~~general, reference, and special~~; and ~~make all rules regarding the loaning and returning of library materials~~ and work to focus the collections.
3. Employ qualified library personnel to care for all library procedures.
4. Make library materials available to libraries throughout the state, to individuals connected with departments of state, and to citizens of North Dakota who do not have adequate library facilities, under the rules of the state library.
5. ~~Promote and assist by counsel and encouragement the formation of libraries and the improvement of those already established, in keeping with state and national standards, and be available to librarians and trustees of libraries in the state for assistance in organization, maintenance, or administration of the libraries.~~ Work to improve

- library services to citizens by providing assistance to librarians and library trustees and staff and by encouraging the extension of networking and regional and statewide cooperation among libraries.
6. Coordinate the efforts of librarianship throughout the state, advising and assisting the extension of qualified public libraries into centers of county or ~~regional (multicounty)~~ multicounty libraries.
 7. ~~Compile statistics of the free public on all North Dakota libraries of North Dakota and their services and their larger counterparts of county and regional~~ multicounty libraries, regional library cooperatives including multitype library authorities, and of the work done at the state library, and make a full biennial report to the superintendent of public instruction and the governor. The state librarian may not require a private sector library to submit information relating to the provisions of this subsection.
 8. Collect, maintain, and make available a ~~reference and reading collection of books, slides, films, and other graphic informational~~ materials that supplement and support the needs of all libraries in the state, either by direct loan or by consultation, and that form a reference source for the officers of the state in performing their duties.
 9. ~~Collect and maintain a collection of the publications of the departments and agencies of state government, including the enacted laws of this state, current session laws, and journals. Assist libraries in developing local standards and guidelines defining the basic level of service that they will provide.~~
 10. Conduct, or have conducted, research into the conditions of library service in the state, and produce written plans for the development and betterment of that service.
 11. ~~Compile, or have compiled, union lists of resources of libraries throughout the state, and make these lists available for consultation. Promote and assist in the development of regional library cooperatives, including multitype library authorities.~~
 12. Establish levels of certification for ~~librarians~~ libraries of the state that meet the standards recommended by the American library association and the North Dakota library association.
 13. Promote and assist libraries in this state in developing and maintaining a computerized, comprehensive, bibliographic statewide data base for storing bibliographic records of libraries which allows residents unmediated, seamless, direct access to library catalogs with a common interface and a common set of commands and the ability to search the library collections of the entire state at one time or only the collections of the local library, regional libraries, or select group of libraries.
 14. Coordinate interlibrary loan activities throughout this state.
 15. Arrange for continuing education and training programs for library personnel.
 16. Provide technical assistance and counsel to library personnel.

17. Distribute grants to libraries within the limits of legislative appropriations for the purpose of developing or improving library services or programs.
18. Provide staff services to the North Dakota library coordinating council.

SECTION 3. AMENDMENT. Section 54-24-09 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-24-09. Distribution of certain state publications for certain libraries required. The state purchasing and printing agent shall arrange to deposit with the state library eight copies of all publications issued by all executive, legislative, and judicial agencies of state government intended for general public distribution. These publications must be provided to the state library without charge. ~~Should~~ If expense and limited supply of state publications, particularly audiovisual items, make ~~strict~~ compliance with the depository requirement impossible, the state library shall accept as many copies as an agency can afford to provide. However, each agency shall provide no less than two copies ~~must be provided~~ to the state library ~~by each agency~~. State publications refer to any informational materials regardless of format, method of reproduction, or source, originating in or produced with the imprint of, by the authority of, or at the total or partial expense of, any state agency. The definition incorporates those publications that may or may not be financed by state funds but are released by private bodies such as research and consultant firms under contract with or supervision of any state agency. In circumstances not directly involving the state purchasing and printing agent, a state agency shall comply with the depository requirement by arranging with the necessary parties for the printing and deposit of eight copies of any state publication issued. State publications are specifically defined as public documents appearing as reports, directories, statistical compendiums, bibliographies, laws or bills, rules, regulations, newsletters, bulletins, state plans, brochures, periodicals, committee minutes, transcripts of public hearings, other printed matter, audiotapes, videotapes, films, filmstrips, or slides, but not those administrative or training materials used only within the issuing agency. As the document acquisition and distribution agency, the state library shall retain for its ~~own use~~ document collection two copies of every state document received and transmit the remaining copies to the depository libraries. These are the libraries of the state historical board, the university of North Dakota, North Dakota state university, library of Congress, and two others to be designated by the state library. All nondepository North Dakota libraries ~~shall have the opportunity to~~ may receive state documents under an optional selection program developed by the state library. The state library shall catalog state publications and arrange for their conversion to microfilm or to optical disk storage prescribed by the state records administrator and shall make available for distribution the same to the designated depository libraries.

SECTION 4. AMENDMENT. Section 54-24.3-01 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-24.3-01. Definitions. In this chapter, unless the context otherwise requires:

1. "Academic library" means a library that is part of a college or university that is publicly or privately funded and whose primary role is to provide resources to enrich and support the school's curricula and the research needs of students and faculty.
2. "Library resource center" means a central service unit, whose location is to be agreed upon by members of the ~~multitype library authority~~ regional library cooperative and ~~who~~ which is responsible for extending

special services to support members of the ~~multitype library authority~~ regional library cooperative, while meeting all ~~authority cooperative~~ standards.

3. "Multitype library authority" means a geographic subdivision within which multitype libraries are organized for the purpose of providing library and information services through cooperation and mutual support.
4. "~~Multitype library authority network~~" means the statewide group of ~~multitype library authorities~~.
5. "Participant library" means any library agreeing to join a ~~multitype library authority~~ regional library cooperative.
6. 5. "Public library" means a library that is supported with funds derived from taxation and which maintains a balanced collection of materials to serve the lifelong information, reading, and recreational needs of the general population.
6. "Regional library cooperative" means an organization of one or more types of library organized under article VI of section 54-24.1-01, or a multitype library authority.
7. "School library media center" means a learning center operated as part of a publicly or privately supported school or school district and whose role is to provide instruction, cooperatively design learning strategies, and provide resources that support and enrich the curriculum, following the North Dakota school library media guidelines.
8. "Special library" means a public or private sector library whose collection is specialized and limited in scope and size and whose role is to provide information to a limited clientele.

SECTION 5. AMENDMENT. Section 54-24.3-03 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-24.3-03. ~~Committee~~ North Dakota library coordinating council powers and duties. In the administration of this chapter, the ~~committee~~ North Dakota library coordinating council may:

1. Adopt ~~bylaws~~ rules for the conduct of business.
2. Provide guidance for the development, implementation, and improvement of ~~the multitype library authority network~~ regional library cooperatives.
3. Enter ~~into~~ contracts necessary for establishing and governing regional library cooperatives.
4. ~~Utilize~~ Use the staff of the state library ~~as permitted by~~ in consultation with the state librarian.
5. Adopt a compensation plan for ~~network~~ staff as necessary for establishing and governing regional library cooperatives.

6. Set the terms and conditions of statewide service contracts with libraries.
7. Determine necessary or desirable ~~interauthority~~ regional or statewide library programs or services.
8. Propose standards for service.
9. Set ~~interauthority~~ reimbursement formulas among regional library cooperatives for reciprocal borrowing and other cooperative plans and set statewide policies for reimbursement formulas for reciprocal borrowing.
10. Conduct periodic performance reviews of ~~multitype library authorities~~ all categories of coordinating council grant-funded projects and make service revisions.
14. ~~Determine types of interaction and linkage of the North Dakota multitype library network with interstate and national library networks.~~

SECTION 6. AMENDMENT. Section 54-24.3-04 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-24.3-04. ~~Multitype library authorities~~ Regional library cooperatives - Establishment. ~~The committee shall North Dakota library coordinating council may establish one multitype library authority during the 1994-93 biennium and shall establish one or more multitype library authorities in each biennium thereafter, until no fewer than four nor more than eight are in existence~~ regional library cooperatives. In establishing the ~~authorities~~ cooperatives, the ~~committee~~ council shall consider:

1. Population;
2. Population density;
3. Number and types of libraries;
4. Library information resources, including existing libraries, staff and collections;
5. Marketing and transportation patterns;
6. Proximity of municipalities;
7. Geographic size of the authority;
8. Finances; and
9. Any other matter not inconsistent with this section.

SECTION 7. AMENDMENT. Section 54-24.3-05 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-24.3-05. ~~Multitype library authority~~ Regional library cooperative interim planning committee - Establishment. ~~The statewide library planning committee~~ North Dakota library coordinating council shall appoint an interim planning committee for the ~~multitype library authority~~ a proposed regional library

cooperative. The interim planning committee must consist of two lay representatives residing within the authority cooperative and five librarians. The librarians must, as far as practical, must represent public libraries, academic libraries, school library media centers, and special libraries.

SECTION 8. AMENDMENT. Section 54-24.3-06 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-24.3-06. ~~Multitype library authority~~ Regional library cooperative interim planning committee - Duties. In the administration of this chapter, the ~~multitype library authority~~ regional library cooperative interim planning committee may:

1. Elect provisional officers;
2. Identify all librarians eligible to be members of the ~~multitype library authority~~ regional library cooperative;
3. Hold informational meetings;
4. Distribute and receive applications for memberships in the ~~multitype library authority~~ regional library cooperative;
5. Draft interim bylaws for the ~~multitype library authority~~ regional library cooperative;
6. Prepare papers of incorporation;
7. Publicize activities;
8. Prepare a three-year plan for the development of services within the ~~authority cooperative~~ and present it to the ~~statewide planning committee~~ North Dakota library coordinating council for review and approval; and
9. Exercise any other duty that is necessary to carry out this chapter.

SECTION 9. AMENDMENT. Section 54-24.3-07 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-24.3-07. ~~Multitype library authority~~ Regional library cooperative - Membership. To join the regional ~~multitype library authority~~ library cooperative, a library ~~shall~~ must obtain official approval from its board and submit an application to the interim planning committee. A library that agrees to provide to any person residing within the ~~authority cooperative~~ access to its collection on the premises, reciprocal borrowing privileges, and interlibrary loan service, may apply for membership. To be eligible for membership, a library ~~shall~~ must have defined service objectives, a fixed location, regular hours of service, an organized collection of information and materials accessible for use by its designated clientele, and a qualified and responsible staff. The library ~~shall~~ must have an identifiable organizational structure and a legal basis for operation. The library ~~shall~~ must be willing and able to participate in appropriate services and programs as set forth by the ~~multitype library authority~~ regional library cooperative. The ~~multitype library authority~~ regional library cooperative interim planning committee shall review all applications and approve applicants for membership.

SECTION 10. AMENDMENT. Section 54-24.3-08 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-24.3-08. ~~Multitype library authority~~ Regional library cooperative - Board.

Each participating library shall designate a representative to sit on the board of the ~~multitype library authority~~ regional library cooperative. At its first meeting, the board shall elect a president, vice president, treasurer, and any other officer it determines to be necessary. The director of the designated library resource center shall serve as an ex officio nonvoting member of the board. The board shall meet at least six times a year and has the power to contract, hire staff and set compensation levels, and adopt bylaws for the conduct of its business. The term of office for all officers of the board is one year, commencing on the January first after election.

SECTION 11. AMENDMENT. Section 54-24.3-09 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-24.3-09. ~~Multitype library authority~~ Regional library cooperative - Powers and duties. In the administration of this chapter, each ~~multitype library authority~~ regional library cooperative may:

1. Sue and be sued in the name of the ~~authority~~ cooperative.
2. Designate for the ~~multitype library authority~~ cooperative a central library resource center with responsibility to extend special services to ~~authority~~ cooperative members while meeting all ~~authority~~ cooperative standards.
3. Designate an administrative officer for the ~~multitype library authority~~ regional library cooperative.
4. Establish, manage, maintain, and operate library facilities.
5. Employ necessary personnel to carry out ~~the provisions of~~ this chapter.
6. Purchase supplies and equipment.
7. Acquire and hold property by purchase, devise, lease, gift, or otherwise and sell, exchange, or otherwise dispose of property.
8. Prepare and adopt a budget.
9. Receive and account for funds from ~~authority~~ cooperative members.
10. Adopt rules.
11. Make an annual report to each member regarding the budget and expenditures, services rendered, program, development plans, audits, and any other information.
12. Enter into contracts necessary to fulfill this chapter.
13. Establish and collect rates and charges for services rendered.
14. Invest excess funds.
15. Establish special funds.
16. Join and participate in civic and professional organizations.

SECTION 12. AMENDMENT. Section 54-24.3-10 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-24.3-10. ~~Multitype library authority~~ Regional library cooperative members - Rights and responsibilities. All members of a ~~multitype library authority~~ regional library cooperative are entitled to receive supplementary reference services, delivery service for library materials, interlibrary loan services, and assistance with citation and location of materials, and reciprocal borrowing privileges among the users of member libraries. All members of a ~~multitype library authority~~ regional library cooperative shall share resources with the exception that rare or restricted materials may be exempt, implementing use standards and protocols; avail themselves of continuing education and training opportunities provided by the ~~authority, cooperative;~~ participate in reference, referral, and interlibrary loan services using communication systems for information exchanged among all types of libraries; maintain total expenditures for library operation, excluding capital improvements, at a level not lower than the preceding fiscal year, or maintain the same or higher mill levy or mill rate equivalency as the preceding fiscal year; and participate in cooperative bibliographic projects.

SECTION 13. AMENDMENT. Section 54-24.3-11 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-24.3-11. Voting rights of members. Each academic, institutional, public, school, and special library has one vote on the board of the ~~multitype library authority~~ regional library cooperative. Each operating public school district has one vote on the board of the ~~authority cooperative,~~ and represents all public school media centers located within the district. Private and parochial school media centers located within each public school district are a single entity, and shall elect one voting representative from among themselves.

SECTION 14. AMENDMENT. Section 54-24.3-12 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-24.3-12. Withdrawal of membership. To discontinue participation in a ~~multitype library authority~~ regional library cooperative, a library ~~authority cooperative~~ member shall ~~obtain a resolution or letter that originally requested membership, and give, in advance, a one-year written notice to the board of the multitype library authority with a copy to cooperative and the statewide North Dakota library planning committee, at least two years before the desired effective date of termination~~ coordinating council. No member may withdraw unless it has been a participant in the ~~multitype library authority~~ regional library cooperative for at least ~~five~~ two years at the time of termination. The withdrawing member shall return all property of the ~~multitype library authority~~ regional library cooperative.

SECTION 15. AMENDMENT. Section 54-24.3-13 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-24.3-13. ~~Multitype library authority~~ Regional library cooperatives - Operating grants. Each ~~multitype library authority~~ regional library cooperative, upon formation, ~~may~~ may apply to the ~~statewide library planning committee for a grant to include costs of operation, equipment, interlibrary loan reimbursement funding, and any other necessary purpose~~ North Dakota library coordinating council for grant funds available for disbursement by the council.

SECTION 16. AMENDMENT. Section 54-24.3-14 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-24.3-14. Fiscal controls and reports. The board of the ~~multitype library authority~~ a regional library cooperative shall develop appropriate accounting and record management policies and procedures documenting the operations of the ~~multitype library authority cooperative~~. These policies and procedures must provide that:

1. All records for the ~~multitype library authority~~ regional library cooperative and board, including those of the board treasurer, are to be maintained at the ~~authority cooperative~~ headquarters.
2. Copies of the ~~multitype library authority~~ regional library cooperative board minutes are sent to each member library, the North Dakota library coordinating council, and ~~to the statewide library planning committee~~ the state librarian.
3. The fiscal year runs from July first to June thirtieth and financial records and activities are maintained in accordance with accepted accounting practices. A record of all bills, payments, and receipts must be presented to the ~~multitype library authority~~ regional library cooperative board by the treasurer at regular meetings and at any other meeting as required by the board.
4. An annual report of cooperative operations, including an accounting of all revenues and expenses, must be filed with the North Dakota library coordinating council and the state librarian at the close of each fiscal year.

SECTION 17. AMENDMENT. Section 54-24.3-15 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-24.3-15. Cooperative services and activities.

1. Each ~~multitype library authority~~ regional library cooperative shall include as part of its five-year plan for development, provisions for:
 - a. Reference services to supplement those provided by each local library, including interlibrary reference and referral services to residents of the ~~authority cooperative~~.
 - b. Interlibrary loan services on behalf of residents of the ~~authority cooperative~~.
 - c. Delivery services for library materials.
 - d. Citation and location services for library materials.
2. Each ~~multitype library authority~~ cooperative may provide for:
 - a. Consultant services and shared staff expertise;
 - b. Cooperative or coordinated acquisition of library materials or subject specialization programs;
 - c. Reciprocal borrowing between member librarians;
 - d. Staff development and inservice training programs;

- e. Centralized ordering, cataloging, and processing of the library materials;
- f. Cooperative storage of library materials and lost-copy protection programs;
- g. Access to computerized literature citation and information data bases;
- h. Preservation of library materials programs;
- i. Public relations services; and
- j. Any other services not inconsistent with this section.

SECTION 18. AMENDMENT. Section 54-24.3-16 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-24.3-16. Dissolution of the ~~multitype library authority~~ regional library cooperative. If the need for a ~~multitype library authority~~ regional library cooperative ceases to exist, the board of the ~~multitype library authority~~ may cooperative, by a two-thirds vote of its members, may declare its intent to dissolve the organization and file with the ~~statewide library planning committee~~ North Dakota library coordinating council a plan for affecting ~~such the~~ dissolution. Upon receipt of the dissolution plan, the ~~committee council~~ shall determine if the area of service can be allocated to other ~~multitype library authorities~~ regional library cooperatives, determine whether the assets and liabilities of the ~~multitype library authority~~ regional library cooperative seeking to dissolve can be assumed and absorbed by adjoining ~~multitype library authorities~~ regional library cooperatives, and consider any other factors ~~which that~~ relate to the operation and functioning of the ~~multitype library authority~~ regional library cooperative seeking to dissolve. If the ~~committee council~~ determines that the ~~multitype library authority~~ regional library cooperative should be dissolved, the dissolution takes effect when all legal and fiscal obligations of the ~~multitype library authority~~ regional library cooperative have been satisfied.

²³ **SECTION 19.** Chapter 54-24.4 of the North Dakota Century Code is created and enacted as follows:

54-24.4-01. North Dakota library coordinating council - Members - Term. The North Dakota library coordinating council consists of ten members. The president of the North Dakota library association is an ex officio, voting member of the council. The state librarian is an ex officio nonvoting member of the council. The governor shall appoint eight members to the council, one of whom must represent special libraries, one of whom must represent public higher education institution libraries, one of whom must represent private higher education institution libraries, one of whom must represent school libraries, two of whom must represent public libraries, one of whom must represent disabled, economically disadvantaged, and minority populations, and one citizen at large. The governor shall take into account reasonable geographic considerations when appointing members of the council. The term of each member is three years. Of the initial council, three

²³ Section 54-24.4-02 was also amended by section 27 of Senate Bill No. 2052, chapter 432.

members must be appointed by the governor for a three-year term, three members must be appointed by the governor for a two-year term, and two members must be appointed by the governor for a one-year term. If at any time during a member's term, the member ceases to possess the qualifications required by this section, the member's office is deemed vacant and the governor shall appoint a qualified representative to complete the term of office. No member may be appointed to serve more than two consecutive three-year terms.

54-24.4-02. North Dakota library coordinating council - Compensation and expense reimbursement. Each member of the North Dakota library coordinating council is entitled to receive the same per day compensation as provided for members of the legislative council under section 54-35-10, together with expenses as provided in sections 44-08-04 and 54-06-09, while attending meetings or performing duties directed by the council. No compensation may be paid under this section to any council member who receives compensation as a regular state official or employee.

54-24.4-03. North Dakota library coordinating council - Meetings. The North Dakota library coordinating council shall hold at least one meeting each calendar year for the purpose of awarding grants or contracts. The council shall give notice to the press and the public of any council meeting at least thirty days in advance of the meeting. Awarding of any grant or contract requires approval by two-thirds of the members of the council.

54-24.4-04. North Dakota library coordinating council - Powers. The North Dakota library coordinating council may elect from its members an executive committee to assist it in performing its duties. The council, in consultation with the state librarian, may request assistance from the staff of the state library in performing its powers and duties.

54-24.4-05. North Dakota library coordinating council - Duties. The North Dakota library coordinating council shall:

1. Assist in planning, coordinating, and evaluating the services and programs of libraries in the state.
2. Serve as the state advisory council on libraries as required by Public Law No. 101-254.
3. Approve the distribution of grants to libraries, except for grants distributed under chapter 54-24.2.
4. Facilitate the development of a comprehensive statewide electronic data base, generate statewide resource sharing, and encourage electronic networking among all types of libraries.
5. Strengthen and support the state library in its role of coordinating the extension and improvement of library services in the state.
6. Strengthen and support regional library cooperatives in extending and improving library services in the state.
7. Inform the public and governing bodies of the goals and objectives of the council and of the role of libraries in assuring equitable access to information technology and basic library services.

8. Support literacy projects for all ages.
9. Facilitate the coordination of statewide library services.
10. Take action necessary to carry out chapter 54-24.3 and this chapter.

SECTION 20. REPEAL. Section 54-24-07 of the North Dakota Century Code and section 54-24.3-02 of the 1995 Supplement to the North Dakota Century Code are repealed.

SECTION 21. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$55,000, or so much of the sum as may be necessary, to the state library for the purpose of connecting library information systems currently operating in the state to allow residents access to library collections included in these systems with one seamless unmediated search, for the biennium beginning July 1, 1997, and ending June 30, 1999.

SECTION 22. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$70,000, or so much of the sum as may be necessary, to the state library for the purpose of providing grants to libraries, schools, or regional library cooperatives to assist them in accessing the internet, for the biennium beginning July 1, 1997, and ending June 30, 1999. The state library shall distribute the grants to libraries, schools, or regional library cooperatives as directed by the North Dakota library coordinating council. The North Dakota library coordinating council shall award grants based on the following criteria:

1. A library, school, or regional library cooperative receiving a grant must provide matching funds.
2. When possible, libraries, schools, and regional library cooperatives should establish partnerships to create and maintain networks.
3. Projects receiving grants must acknowledge and respond to the needs of the public.
4. Internet access for public users must be ensured and the network must be accessible, easy to operate, attractive, and well-supported through training, technical support, maintenance, and upgrading of the network and its associated equipment.
5. The network must be developed and operated with broad participation and input from users.
6. The network must meet appropriate state, national, and international standards and specifications and have the capability to connect with existing telecommunications systems.

Approved April 10, 1997
Filed April 11, 1997

CHAPTER 454

HOUSE BILL NO. 1126

(Government and Veterans Affairs Committee)

(At the request of the Office of Management and Budget)

GENERAL FUND REFUNDS

AN ACT to amend and reenact section 54-27-24 of the North Dakota Century Code, relating to paying refunds from the general fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-27-24 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-27-24. ~~State refund account~~ Paying refunds from the general fund. ~~The office of management and budget shall establish a state refund account. The account is to be used by each~~ Each office, agency, or institution that must deposit funds collected; ~~directly to~~ in the general fund shall pay refunds from the general fund.

The office of management and budget shall establish accounting requirements for ~~the account~~ paying refunds from the general fund in accordance with the central accounting system.

Approved February 11, 1997

Filed February 11, 1997

CHAPTER 455**SENATE BILL NO. 2054**

(Senator G. Nelson)
(Representative Dorso)

**LIEUTENANT GOVERNOR REMOVAL FROM
COMMITTEES**

AN ACT to amend and reenact section 54-35-02.1 of the North Dakota Century Code, relating to the membership of the budget section and the legislative audit and fiscal review committee; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-35-02.1 of the North Dakota Century Code is amended and reenacted as follows:

54-35-02.1. Legislative audit and fiscal review committee. For the purposes of studying and reviewing the financial transactions of this state; to assure the collection and expenditure of its revenues and moneys in compliance with law and legislative intent and sound financial practices; and to provide the legislative assembly with formal, objective information on revenue collections and expenditures for a basis of legislative action to improve the fiscal structure and transactions of this state, the legislative council shall create a division of the budget section of the legislative council entitled the legislative audit and fiscal review committee. ~~The lieutenant governor shall serve as a member of the budget section and as chairman of the legislative audit and fiscal review committee.~~ Other members of the committee must be appointed in the same manner as other members of legislative council committees. ~~The lieutenant governor must be compensated for the time spent and for expenses incurred in attendance at sessions of the committee and other official duties of such committee in the same amounts as other committee chairmen of the council.~~

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

Approved April 1, 1997
Filed April 2, 1997

CHAPTER 456

HOUSE BILL NO. 1385

(Representatives Bernstein, Carlson, Skarphol)
(Senator B. Stenehjem)

ADMINISTRATIVE RULES COMMITTEE MEMBERSHIP

AN ACT to amend and reenact sections 54-35-02.5 and 54-35-17 of the North Dakota Century Code, relating to the composition of the administrative rules committee and the retention of legal counsel by the legislative branch; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-35-02.5 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-35-02.5. ~~Committee on administrative~~ Administrative rules committee. The legislative council ~~shall~~, during each biennium, shall appoint a ~~committee on an~~ administrative rules committee in the same manner as the council appoints other interim committees. The legislative council shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative council interim committees. The membership of the administrative rules committee must include at least one of the members who served during the most recently completed regular session of the legislative assembly from each of the standing committees of either the house of representatives or the senate.

SECTION 2. AMENDMENT. Section 54-35-17 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-35-17. Retention of legal counsel. When the legislative assembly is in session, either house by resolution may authorize, or both houses by concurrent resolution may direct, the legislative council to appoint or retain legal counsel to appear in, commence, prosecute, defend, or intervene in any action, suit, matter, cause, or proceeding in any court or agency when deemed necessary or advisable to protect the official interests of the legislative branch. When the legislative assembly is not in session, the legislative council, by a ~~two-thirds~~ majority vote, may appoint or retain legal counsel to appear in, commence ~~or~~, prosecute, ~~or by a majority vote,~~ ~~may appoint or retain legal counsel to~~ defend, or intervene in; any action, suit, matter, cause, or proceeding in any court or agency when deemed necessary or advisable to protect the official interests of the legislative branch. Section 54-12-08 does not apply to a person appointed or retained under this section.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 4, 1997
Filed April 4, 1997

CHAPTER 457

HOUSE BILL NO. 1034

(Legislative Council)
 (Budget Committee on Agriculture and Information Services)
 (Representative Byerly)
 (Senators Robinson, C. Nelson)

LEGISLATIVE INFORMATION TECHNOLOGY PROGRAM

AN ACT to create and enact four new sections to chapter 54-44.2 of the North Dakota Century Code, relating to information technology planning, standards, setting, and reviews by the information services division; to amend and reenact sections 15-65-01, 15-65-02, 15-65-03, 15-65-06, 54-35-15, 54-44.2-00.1, 54-44.2-01, 54-44.2-02, 54-44.2-04, 54-44.2-06, 54-44.2-07, and 54-44.2-08 of the North Dakota Century Code, relating to the educational telecommunications council, information technology responsibilities of the legislative council, and duties and responsibilities of the information services division; to repeal sections 15-65-04, 54-44.2-02.1, 54-44.2-02.2, 54-44.2-02.3, 54-44.2-02.4, and 54-44.2-02.5 of the North Dakota Century Code, relating to the educational telecommunications council and duties and responsibilities of the information services division; to provide statements of legislative intent; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-65-01 of the North Dakota Century Code is amended and reenacted as follows:

15-65-01. North Dakota educational telecommunications council - Creation - Purpose. The North Dakota educational telecommunications council shall encourage and ~~direct~~ promote the ~~creation of educational telecommunication programs and use of technology for educational purposes and the development of technology systems to improve educational opportunity within the state.~~

SECTION 2. AMENDMENT. Section 15-65-02 of the North Dakota Century Code is amended and reenacted as follows:

15-65-02. Membership - Appointment - Term - No compensation - Expenses - Organization. The North Dakota educational telecommunications council consists of:

1. The commissioner of higher education or the commissioner's designee.
2. The superintendent of public instruction or the superintendent's designee.
3. ~~One citizen member appointed by the governor giving preference to users of a telecommunications system.~~
4. The director of the information services division of the office of management and budget.

- ~~5.~~ A representative of prairie public broadcasting, appointed by the governor.
- ~~6.~~ 4. A representative of the telephone industry, appointed by the governor.
- ~~7.~~ A representative of the North Dakota association of telephone cooperatives, appointed by the governor.
- ~~8.~~ A representative of the North Dakota cable television association, appointed by the governor.
- ~~9.~~ 5. A school board member, appointed by the governor.
- ~~10.~~ 6. A school administrator, appointed by the governor.
- ~~11.~~ 7. A schoolteacher, appointed by the governor.

The term of office of the appointed members is three years; ~~except that of the original appointees, three shall serve one year, three shall serve two years, and two shall serve three years, which appointees to be determined by lot.~~ At all times either the school board member or the school administrator must be from a school with an enrollment of ~~less~~ fewer than five hundred students.

The ~~two~~ citizen members, the school board member, the school administrator, and the schoolteacher appointed by the governor must be reimbursed for actual necessary expenses incurred in the performance of their duties as members of the council at the same rates as provided by law for other state officers and employees. The costs incurred in reimbursing the ~~two~~ citizen members of the council for their actual necessary expenses must be paid by the superintendent of public instruction. The other members of the council are not entitled to any compensation or reimbursement for expenses incurred in performing their duties. The superintendent of public instruction shall call the initial meeting of the council at which time the council shall elect its chairman and other officers and take such other action as it deems appropriate.

SECTION 3. AMENDMENT. Section 15-65-03 of the North Dakota Century Code is amended and reenacted as follows:

15-65-03. Powers and duties. The council shall:

1. Direct the implementation of telecommunication systems that are ~~compatible and that can be connected with each other.~~ Promote the use of technology and the development of technology systems to enhance educational opportunities within the state.
2. Develop a comprehensive written plan for the development of telecommunications in this state. Cooperate with state agencies and other organizations to develop statewide educational technology systems.
3. Be concerned with the development and use of statewide educational telecommunication programs and systems.
4. ~~Hold coordinating authority for the development of such statewide educational telecommunication programs and systems as may be required to serve the entire state.~~

5. Assist any organization, state agencies, or both in the preparation, filing, and prosecution before federal agencies such applications, reports, or other documents or requests of any kind that may be necessary or appropriate to achieve the purposes of this chapter.
 6. Receive gifts and contributions from public and private sources to be expended to provide educational telecommunication programs and systems.
 7. Be concerned with the activation of educational broadcasting channels presently assigned to North Dakota, or the reallocation or addition of the channels, or both, as are determined to be in the best interests of the people of the state.
 8. Actively cooperate with the state department of public instruction and the state board of higher education and other agencies and private organizations for the purpose of developing statewide educational telecommunication projects.
 9. Adopt bylaws for the conduct of its affairs.
40. 4. Publish the informational material it deems necessary.
44. 5. ~~Carry on~~ Conduct a continuing study relating to assess the needs, resources, and facilities which are available or may be required to establish educational telecommunication programs and technology systems throughout the entire state.
42. 6. ~~Contract with eligible applicants to build and operate public television stations in this state. Eligible applicants are those licensed by the federal communications commission to operate noncommercial public television stations. Operational contracts may not exceed the amount raised within the preceding fiscal year by the applicant from nontax sources in this state. Receive gifts and grants from private and public sources to be expended for educational technology projects.~~

SECTION 4. AMENDMENT. Section 15-65-06 of the North Dakota Century Code is amended and reenacted as follows:

15-65-06. Plan for statewide system of interactive telecommunications educational technology - Solicitation of grants. In developing and implementing a plan for a statewide system of interactive telecommunications educational technology, the educational telecommunications council shall solicit grants to be used in conjunction with moneys appropriated by the legislative assembly for telecommunications educational technology. Any moneys appropriated by the legislative assembly for telecommunications educational technology, unless specifically provided otherwise, and any grants received in accordance with this section must be used to implement the ~~plan~~ systems developed by the educational telecommunications council pursuant to this chapter.

SECTION 5. AMENDMENT. Section 54-35-15 of the North Dakota Century Code is amended and reenacted as follows:

54-35-15. Science and Information technology program - Staff - Powers and duties.

1. The legislative council, or its designee, shall provide ~~scientific and technological~~ information technology research and staff services to the legislative branch. The services must be provided in accordance with the existing statutory authority of the legislative council and within the framework of its other staff services.
2. The legislative council staff office shall provide ~~the scientific and technological~~ information technology services, and the council, or its designee, may hire such additional staff as are necessary, and set compensation for any additional staff within the limits of legislative appropriations.
3. The council, or its designee, shall structure the provision of ~~scientific and technological~~ information technology services and assistance to the legislative assembly; and shall receive such cooperation and assistance from other state agencies as it may reasonably request.
4. The council, or its designee, shall study emerging technology and evaluate its impact on the state's system of information technology, and report and make recommendations to the legislative council and the legislative assembly regarding information technology in state government.
5. The council, or its designee, shall develop guidelines for reports to be provided by each executive branch agency, institution, or department, the institutions under the control of the board of higher education, and agencies of the judicial and legislative branches on information technology in those entities.
6. The council, or its designee, shall review the information technology management of executive branch agencies, institutions, or departments, institutions under the control of the board of higher education, and agencies of the judicial and legislative branches as determined necessary by the council or its designee.
7. The council, or its designee, shall perform information systems reviews and audits of information technology systems or applications of executive branch state agencies, institutions, and departments, institutions under the control of the state board of higher education, and agencies of the judicial and legislative branches, as determined necessary by the council, or its designee. The reviews and audits may include evaluating compliance with system or application requirements, data integrity, security, controls, audit trails, backup and recovery methods, and the effectiveness and appropriateness of the system in achieving its intended purpose, as applicable.
8. The council, or its designee, shall monitor the implementation of information technology systems development projects and application development projects for conformance with the agency's strategic plan and compliance with statewide policies and standards as determined necessary by the council, or its designee, and report any nonconformance or noncompliance discovered to the council or its designated committee.
9. As used in this section, "information technology" means computing and data communications systems and their supporting infrastructure used in

the acquisition, processing, management, analysis, storage, and delivery of information.

SECTION 6. AMENDMENT. Section 54-44.2-00.1 of the North Dakota Century Code is amended and reenacted as follows:

54-44.2-00.1. Definitions. As used in this chapter:

1. "Data processing" or "electronic data processing" means the systematic sequencing of operations performed by data processing equipment or programs, or both, upon data stored or entered in alphabetic, numeric, or alphanumeric format. "Information technology" means computing and data communications systems and their supporting infrastructure used in the acquisition, processing, management, analysis, storage, and delivery of information.
2. "Data processing equipment" means an electronic device or associated devices, except calculators and stand-alone noncommunicating word processors, which perform logical, arithmetic, and memory functions by the manipulation of electronic or magnetic impulses and includes all compiling and related input, output, and storage, equipment, programs and procedures, and data processing communications facilities. "Information technology services" means the equipment, software, and services necessary for the acquisition, processing, management, analysis, storage, and delivery of information.
3. "Telecommunications" means the electronic exchange of voice, data, image, and video information. "Telephone services" means the equipment, software, and services necessary to transmit voice, data, or video through the public telephone network.
4. "Transmission facilities" means terrestrial lines, and microwave, lightwave, and satellite facilities.
5. "Word processing" means the textual formatting, correcting, editing, and rearranging of language elements, designed to convey full messages in English syntax, through manipulation of electronic or magnetic impulses. "Word processors" are devices on which word processing can be carried out.

SECTION 7. AMENDMENT. Section 54-44.2-01 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.2-01. Information services division - Creation. The information services division is established in the office of management and budget. The director of the office of management and budget shall appoint a director of the information services division. The director of the information services division shall supervise and regulate ~~electronic data processing activities~~ the information technology of all executive branch state agencies, institutions, departments, and boards, ~~except the job service North Dakota and the office of the adjutant general~~ excluding the institutions under the control of the board of higher education. ~~The division shall establish an electronic data processing center which must, unless excepted by the director, be used by all executive branch state agencies, departments, and institutions except the institutions under the control of the board of higher education, the job service North Dakota, and the office of the adjutant general. The division shall provide data processing services to the legislative and judicial branches of government. If the~~

division is unable to fulfill a request for service from the legislative or judicial branch of government, the service may be procured by the legislative or judicial branch within the limits of legislative appropriations.

The director of the information services division must be appointed upon the basis of education, experience, and other qualifications in data processing information technology and administration. ~~The position of director is not a classified position and the director,~~ without reference to partisan politics, and must serve at the pleasure of the director of the office of management and budget. The director of the information services division shall employ such other professional, technical, and clerical personnel as the director determines to be necessary to carry out the duties prescribed in this chapter and ~~shall,~~ within the limits of the legislative appropriation, shall fix the salaries of all employees within the division. All personnel within the division must be allowed their actual and necessary travel expenses at the same rate as for other employees of the state.

SECTION 8. AMENDMENT. Section 54-44.2-02 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.2-02. Information services division - Powers and duties. The information services division shall:

1. Provide systems design, programming, and other data processing information technology services.
2. Design, plan, justify, and implement all data processing systems within and between state agencies that utilize the services of the division. Provide telephone services.
3. Have the authority to purchase or lease ~~such additional~~ equipment or replace, including by trade or resale, present equipment as may be necessary to carry out this chapter. Each executive branch department, agency, or institution, except the institutions under the control of the board of higher education, ~~the job service North Dakota, and the office of adjutant general,~~ shall submit to the director of the information services division for approval or disapproval and the legislative council, or its designee, in accordance with guidelines established by the division, a written request for data processing services that require new data processing applications. A request must also be submitted for modifications to existing data processing applications which are expected to increase the cost of operating such data processing applications by more than fifteen percent. The director may approve or disapprove the lease, purchase, or other contractual acquisition of ~~additional or new~~ electronic data processing information technology services or equipment by executive branch agencies, except the institutions under the control of the board of higher education, the job service North Dakota, and the office of adjutant general. The director may authorize a user agency to house and operate electronic data processing equipment. The information services division shall review requests for conformance with the requesting organization's strategic plan and compliance with statewide policies and standards. If the request is not in conformance or compliance, the information services division may disapprove the request or require justification for the departure from the strategic plan or statewide policy or standard. The division shall inform the legislative council, or its designee, of any requests disapproved or additional justification received relating to a request.

4. Provide data processing information technology services, including assistance and advisory service to the legislative, executive, and judicial branches. If the division is unable to fulfill a request for service from the legislative or judicial branch, the service may be procured by the legislative or judicial branch within the limits of legislative appropriations.
5. Establish and justify data processing activities and costs in order that effectiveness can be measured.
6. Establish a data bank to eliminate the duplicate storage of common data and thereby develop more economical and efficient use of the data processing system. The data bank must consist of data, except where data is restricted from such use by law and such confidentiality cannot be reasonably maintained in the data bank, contained within the files of all agencies, departments, and institutions being provided services by the division. If the data bank contains data of use to other departments, agencies, and institutions, the data may be made available to such departments, agencies, and institutions after notice has been given to the agency, department, or institution from which the data was originally received.
7. Analyze proposals for executive branch agency word processing equipment and facility acquisitions and make such comments and recommendations as it may believe necessary so that such equipment and facilities will be compatible with electronic data processing equipment and programs under the supervision of the division. The office of management and budget may not approve vouchers for acquisition of word processing equipment and facilities by executive branch agencies unless the vouchers have attached to them the division's comments and recommendations.
8. Conduct conferences and meetings with various state agencies, departments, institutions, and political subdivisions to review proposals and provide information on improving telecommunications and transmission facilities in government and coordinate information technology services. The information services division shall report annually to the legislative council or its designated committee regarding the coordination of services with political subdivisions.
9. Implement improvements in the state telecommunications and transmission facilities as are feasible and within the limitations of appropriated funds.
10. Adopt any rules determined to be necessary to establish standard procedures and practices in the development and use of telecommunications and transmission facilities provided by the division.
11. Provide advice, general guidelines, and information to political subdivisions on the compatibility and interactive capacity of computers and other electronic information systems with the goal of developing a statewide compatible electronic communications network by 1996.
12. 6. Have authority to request information on or review information technology systems, applications, system development projects, and

application development projects of executive branch departments, agencies, and institutions.

7. Perform all other duties necessary to carry out this chapter.

SECTION 9. Four new sections to chapter 54-44.2 of the North Dakota Century Code are created and enacted as follows:

Information technology standards. The information services division, based on information from state agencies, institutions, and departments, and in consultation with the legislative council, shall develop statewide information technology policies, standards, and guidelines. Unless an exception is granted by the information services division, each executive branch state agency, institution, or department, excluding the institutions under the control of the board of higher education, shall comply with the policies and standards developed by the information services division.

Information technology planning. Each executive branch state agency, institution, or department, including the institutions under the control of the board of higher education, shall prepare an information technology strategic plan, subject to approval by the information services division. The plan must be submitted to the information services division and the legislative council by January fifteenth of each even-numbered year. The plan must be prepared based on guidelines developed by the information services division in consultation with the legislative council; must provide the information technology goals, objectives, and activities of the organization for the next five years; and must include a detailed list of information technology assets owned, leased, or employed by the agency, institution, or department. Each agency, institution, or department shall provide interim updates to its plan if major information technology changes occur which affect its plan. The information services division shall review each agency's, institution's, or department's strategic plan for compliance with statewide information technology policies and standards and may require an agency, institution, or department to change its strategic plan to comply with statewide policies or standards or to resolve conflicting directions among plans. Agencies of the judicial and legislative branches shall file their information technology strategic plans with the information services division and the legislative council by January fifteenth of each even-numbered year. Each agency, institution, or department shall prepare its budget request for the next biennium based on its information technology strategic plan. Based on the plans prepared by agencies, institutions, and departments, the information services division shall prepare a statewide information technology strategic plan and distribute copies of that plan to members of the legislative assembly as requested by the legislative council or its designee.

Information technology coordination - Report to legislative council. The director of the information services division and the commissioner of the board of higher education shall meet at least twice each year to plan and coordinate their information technology systems and services. The director and commissioner shall consider areas in which joint or coordinated information technology systems and services may result in more efficient and effective state government operations. The director and commissioner shall report their findings and recommendations to the legislative council or its designated committee before November of each year.

Information technology management reviews - Report to legislative audit and fiscal review committee. The information services division shall review the information technology management of executive branch state agencies, institutions, or departments, including the institutions under the control of the board of higher

education, as determined by the director of the information services division. The review must include an evaluation of the organization's planning effectiveness, conformance to its strategic plan, compliance with statewide policies and standards, asset quality, and training methods, and for an organization that contracts for information technology services, an analysis of the organization's contract management system and the contractor's compliance with contract provisions. If an agency, institution, or department is found not to be in compliance with statewide policies and standards and does not agree to come into compliance, the information services division may report the issue to the legislative audit and fiscal review committee. The information services division shall report recurring issues of noncompliance to the legislative audit and fiscal review committee.

SECTION 10. AMENDMENT. Section 54-44.2-04 of the North Dakota Century Code is amended and reenacted as follows:

54-44.2-04. Appointment of data processing information technology coordinators. Each agency, department, or institution of this state utilizing the services and equipment provided by the information services division shall appoint an electronic data processing information technology coordinator. The coordinator shall maintain liaison with the division and assist the division in such activities as the establishment of priorities, rescheduling, reports, and other areas related to making the most economical use of the data processing services and equipment information technology.

SECTION 11. AMENDMENT. Section 54-44.2-06 of the North Dakota Century Code is amended and reenacted as follows:

54-44.2-06. Secrecy provision Confidentiality. The personnel of the information services division may receive from the various departments, and the employees of the various departments may provide to the division, any information from the files and records of the various departments necessary to effect the purposes of this chapter without regard to the confidential or secret nature of the information; provided, however, the personnel of the division are is subject to the same restrictions and penalties regarding the dissemination of this information as are the personnel of the department involved.

SECTION 12. AMENDMENT. Section 54-44.2-07 of the North Dakota Century Code is amended and reenacted as follows:

54-44.2-07. Acceptance of federal and other funds. Funds received by a state agency or institution from the government of the United States for the purpose of matching state funds for the purpose of improving normal or emergency telecommunication systems may be deposited in the information services operating fund, unless the funds have been specifically appropriated by the legislative assembly for some other purpose or unless transfer would be contrary to the federal regulations governing the grant. The information services division may accept federal or other funds, which must be deposited in the information services operating fund and which may be spent subject to legislative appropriations. The director of the information services division may apply for any public or private grants available for the improvement of telecommunication systems information technology.

²⁴ **SECTION 13. AMENDMENT.** Section 54-44.2-08 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.2-08. Access to electronically stored information - Coordination by information services division. An entity of the state may establish procedures for providing access to any computer data base or electronically filed or stored information maintained by that entity. The procedures must address the measures that are necessary to maintain the confidentiality of information protected by federal or state law. The entity may charge a reasonable fee for providing that access. ~~If the original information is keyed, entered, provided, compiled, or submitted by any political subdivision, the fees must be shared by the state and the political subdivision based on their proportional costs to make the data available.~~ The information services division shall cooperate with each state entity providing access to any computer data base or electronically filed or stored information to assist in providing economical, efficient, and compatible access.

SECTION 14. REPEAL. Sections 15-65-04, 54-44.2-02.1, 54-44.2-02.2, 54-44.2-02.3, and 54-44.2-02.4 of the North Dakota Century Code and section 54-44.2-02.5 of the 1995 Supplement to the North Dakota Century Code are repealed.

SECTION 15. LEGISLATIVE INTENT - INFORMATION TECHNOLOGY STRATEGIC PLANS. It is the intent of the fifty-fifth legislative assembly that state agency information technology strategic plans include the following:

1. Each state agency information technology strategic plan should include an executive summary consisting of:
 - a. Proposed information technology direction for the agency.
 - (1) Overall information technology plan summary, including benefits and outcomes justifying the plan.
 - (2) The compatibility of the agency's plan with the statewide information technology plan (when complete).
 - (3) Major goals, objectives, timelines, and projected costs, by funding source.
 - (a) Short-term - The current biennium.
 - (b) Medium-term - One to three years (subsequent biennium).
 - (c) Long-term - Three to five years (second subsequent biennium).
 - (4) A summary of each major project in the plan which includes information on:

²⁴ Section 54-44.2-08 was also amended by section 22 of Senate Bill No. 2228, chapter 381.

- (a) Total project cost.
 - (b) Cost for each biennium, by funding source.
 - (c) Estimated development costs, including costs within the agency, information services division services required, and contract services needed.
 - (d) Estimated ongoing maintenance and support costs, including costs within the agency, information services division services required, and contract services needed.
 - (e) Personnel training costs.
 - b. Annual projections for five years of operational costs by funding source, including federal funds, of the agency's current information technology systems including full-time equivalent positions, information services division services, contract services, and training.
 - c. Information technology accomplishments, including major agency accomplishments relating to the agency's goals and objectives included in the previous information technology plan.
2. Each state agency information technology strategic plan should also include:
 - a. A description of the agency and a summary of services provided by the agency.
 - b. A list of current information technology systems of the agency, including:
 - (1) Major systems, including a description of the systems, the systems' capabilities to share information with other agencies and political subdivisions, and public access to information in the systems.
 - (2) Other systems, including a description of the systems, the systems' capabilities to share information with other agencies and political subdivisions, and public access to information in the systems.
 - (3) Projected annual operational and support costs by funding source, including federal funds for systems, for five years including projections relating to agency full-time equivalent positions, information services division services, the use of outside consultants, and employee training.
 - (4) An information technology inventory, including the cost of inventory.
 - (5) A description of the agency's information technology contract management system, including procedures used in securing contracts and monitoring procedures during the contract period.

- (6) A list of employee training methods relating to information technology.
 - (7) A disaster recovery plan for the agency's information technology systems.
- c. An assessment of current systems of the agency, including:
- (1) An analysis of the systems, including those aspects of the systems that work well and those that need improvement, including:
 - (a) In-office applications and services.
 - (b) Capability of sharing information with other agencies and political subdivisions.
 - (c) Availability of public access to information.
 - (2) Systems' requirements - Whether federal or state law affects systems' requirements and whether the systems must be approved by the federal government or other organization.
 - (3) Options for systems' modifications, if any are being considered.
- d. Information technology direction for the agency, including:
- (1) An overall agency information technology plans summary.
 - (2) A list of goals and objectives for the agency's information technology systems, including:
 - (a) Short-term - The current biennium.
 - (b) Medium-term - One to three years (subsequent biennium).
 - (c) Long-term - Three to five years (second subsequent biennium).
 - (d) Specific estimated costs by funding source, including federal funds, for each objective during the next three years and an estimated cost range for long-term goals and objectives, if a specific estimate is unavailable.
 - (e) Identification of plans to use agency employees, information services division, or outside consultants to accomplish each objective and, if applicable, the method of contracting which will be used.
 - (f) The benefits resulting from achieving the goals, including the effect on employee productivity and on agency services.

- (g) The impact on other agencies or users resulting from achieving the goals or objectives.
 - (h) Measurable outcomes that may be realized as a result of achieving the goals or objectives.
 - (3) For each major information technology project in the plan, specific information should be included on:
 - (a) A detailed cost-benefit analysis.
 - (b) Total project cost information, by year and by funding source.
 - (c) Project development costs, including costs within the agency, information services division services required, and contract services needed.
 - (d) Estimated ongoing maintenance and support costs, including costs within the agency, information services division services required, and contract services needed.
 - (e) Personnel training costs.
 - (f) Options for phasing in the project.
 - (g) Options for implementing only certain components of the project.
 - (4) A list of methods used by the agency to manage information technology costs and to ensure that the systems and services are cost effective.
 - (5) A review of the compatibility of the agency's plan with the statewide information technology plan (when complete) and with statewide information technology policies and standards (when established).
- e. Accomplishments in achieving information technology goals and objectives; including:
 - (1) A list of specific agency accomplishments relating to the agency's goals and objectives included in the previous information technology plan.
 - (2) A comparison of outcomes realized resulting from achieving goals and objectives compared to projected outcomes included in the previous plan.
 - (3) A comparison of actual project costs to project estimates included in the previous plan.

SECTION 16. LEGISLATIVE INTENT - GRANTS FOR THE CENTER FOR INNOVATION IN INSTRUCTION. It is the intent of the fifty-fifth legislative assembly that the funds appropriated for grants to the center for innovation in instruction be distributed by the board of higher education to support teacher and

school staff training in educational technology through the center for innovation in instruction.

SECTION 17. LEGISLATIVE INTENT - PRAIRIE PUBLIC BROADCASTING - MATCHING GRANTS. It is the intent of the fifty-fifth legislative assembly that prairie public broadcasting receive grants from the board of higher education. The grants are to be distributed four times each year, in July, October, January, and April. The grants must be fifty cents for each dollar raised by prairie public broadcasting during the three-month period ending in the month immediately preceding the month in which the grants must be distributed. In determining the amount of the grant, revenue from the following sources must be considered: membership contributions for prairie public television and prairie public radio from North Dakota residents, program underwriting contributions raised from organizations doing business in North Dakota, and fees received for the prairie on-line program. Grants may not exceed \$475,000 during any state fiscal year. If, as of June thirtieth of any year, the amount of grants distributed during the preceding twelve months is less than \$475,000, the undistributed amount available for that fiscal year must be deposited in the state general fund.

SECTION 18. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from other income, to the board of higher education for grants for the biennium beginning July 1, 1997, and ending June 30, 1999, as follows:

Grants - center for innovation in instruction	\$ 297,250
Grants - prairie public broadcasting	<u>950,000</u>
Total general fund appropriation	\$1,247,250

SECTION 19. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$466,960, or so much of the sum as may be necessary, to the legislative council for the purpose of defraying the expenses of its information technology program for the biennium beginning July 1, 1997, and ending June 30, 1999.

Approved April 11, 1997
 Filed April 11, 1997

CHAPTER 458

HOUSE BILL NO. 1237

(Representative Dorso)
(Senator G. Nelson)

ELECTRIC INDUSTRY COMPETITION COMMITTEE

AN ACT to establish an electric industry competition committee; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Electric industry competition - Need for study. The legislative council shall study the impact of competition on the generation, transmission, and distribution of electric energy within this state. The legislative assembly finds that the economy of this state depends on the availability of reliable, low cost, electric energy. There is a national trend toward competition in the generation, transmission, and distribution of electric energy and the legislative assembly acknowledges that this competition has both potential benefits and adverse impacts on this state's electric suppliers as well as on their shareholders and customers and the citizens of this state. The legislative assembly determines that it is in the best interests of the citizens of this state to study the effects of competition on the generation, transmission, and distribution of electric energy.

SECTION 2. Electric industry competition committee - Composition.

1. The legislative council shall appoint a committee to study electric industry competition.
2. The committee shall study the impact of competition on the generation, transmission, and distribution of electric energy within this state and on the state's electric suppliers.
3. As used in this Act, "electric suppliers" means public utilities regulated under title 49, rural electric cooperatives organized under chapter 10-13, municipal electric utilities organized under chapters 40-33 and 40-33.2, and power marketers.
4. The committee consists of:
 - a. Three or four members of the house of representatives, no more than two of whom may be from the same political party.
 - b. Three or four members of the senate, no more than two of whom may be from the same political party.
5. The chairman of the legislative council shall name one of the members as chairman.

SECTION 3. Electric industry competition committee - Study areas. The electric industry competition committee shall study this state's electric industry competition and electric suppliers and shall report to the legislative council in the

same manner as do other interim legislative council committees, concerning the following issues:

1. Financial issues, including:
 - a. The interests of residential customers, including:
 - (1) Fairness of rates, terms, and conditions of service for services chosen.
 - (2) Affordability of rates, bills, and services.
 - (3) Stability and predictability of rates and bills.
 - (4) Reliability and quality of power supply.
 - (5) Assurance that rates, terms, and conditions are nondiscriminatory.
 - (6) Ability of customers to understand potential energy choices.
 - (7) Importance of a fair dispute resolution process.
 - (8) Potential for rates to reflect the customer's desired level of energy reliability and availability.
 - b. The interests of small business customers, large business customers, shareholders, and other stakeholders, including:
 - (1) Fairness of rates, terms, and conditions of service for the services chosen by customers.
 - (2) Affordability of rates, bills, and services for customers.
 - (3) Stability and predictability of customers' rates and bills.
 - (4) Assurance that rates, terms, and conditions are nondiscriminatory for all customers.
 - (5) Ability of customers to understand potential energy choices and the implications of these choices.
 - (6) Importance of a fair dispute resolution process for customers.
 - (7) Potential for rates to reflect the customer's desired level of energy reliability and availability.
 - c. Financial integrity of and cost of capital to electric power suppliers.
 - d. Taxes paid by electric suppliers, including franchise taxes, excise taxes, income taxes, ad valorem taxes, in lieu taxes, and real and personal property taxes.
 - e. Tax implications to local governments.

- f. Quantification and recovery of stranded investments by electric power suppliers, including those resulting from:
 - (1) Customers who have a legal obligation to bear certain costs, who find a way to avoid those obligations, and who leave without paying costs incurred on the customer's behalf; and
 - (2) The costs of investments that exceed their value in the competitive market.
 - g. Pricing of transmission and distribution services.
 - h. Pricing and rate subsidies for all classes of customers.
 - i. Unbundling of costs of services.
2. Legal issues, including:
 - a. State, tribal, and federal jurisdiction.
 - b. State statutory and regulatory constraints and oversight of the electric industry.
 - c. Those related to the federal energy regulatory commission.
 - d. Commerce clause constraints.
 - e. Review of existing state laws, rules, and constitutional provisions that affect the generation, transmission, and distribution of electric energy, including the need and appropriateness of regulatory reforms for services that will continue to be provided by a regulated utility.
 - f. Interstate reciprocity and the regional nature of the industry.
 - g. Continuing obligations of an electric supplier to serve customers.
 - h. Use and protection of proprietary information in a competitive market.
 3. Social issues, including:
 - a. Planning and operation of electric suppliers, including integrated resource planning.
 - b. Efficiency and sufficiency of an aggregate supply of energy.
 - c. Environmental impacts.
 - d. Impact on the development and use of renewable resources.
 - e. Appropriate and proper method of recovery of the cost of social, low income, and noneconomic renewable energy programs in order to ensure that costs are fairly and equitably shared among all customers of electric energy.

4. Issues related to system planning, operation, and reliability, including:
 - a. Electric system reliability.
 - b. Provisions by which customers would be permitted to have a choice of generation providers.
 - c. Applicability of regulatory reliability criteria to nonutility market participants.
 - d. Form and requirements of contracts for the sale and purchase of electric energy.
 - e. Requirements for metering energy usage at the customer's location.
 - f. Designation and regulation of ancillary services.
5. Identification and review of potential market structures, including:
 - a. Possible market structures for a deregulated generation market and transmission market and whether these structures should be mandated or allowed to form voluntarily.
 - b. Formation of market segments in response to customer requirements.
 - c. Impact on the investment stability of the electric utility industry.
 - d. Impact on multipurpose entities.
 - e. Potential to improve economic efficiency.
 - f. Size of the market and the extent to which its size impacts the level of benefits for customers or groups of customers.
 - g. Ability of participants with control over the electricity generation and transmission system to exercise market power over pricing or the need for controls to prevent the exercise of market power.
 - h. Controls or bans on corporate relationships between regulated utilities and emerging competitive sectors.
 - i. Barriers to achieving nondiscriminatory competition among electric suppliers, including review of federal and state tax issues, availability of federal subsidies to certain energy suppliers, application of federal laws that impose regulatory requirements on the electric utility industry, and jurisdiction of the federal energy regulatory commission over competitors.
 - j. Viability of all customers to participate in and benefit from a competitive electricity market, including:
 - (1) Risks and responsibilities that customers or classes of customers incur by participating in a competitive market.

- (2) Costs of gathering, processing, and managing information on the price and quality of electricity.
 - (3) Benefits to customers or classes of customers from participation in a competitive electricity market.
6. Whether and to what extent power produced by the Garrison dam should be taxed by the state.
7. The source and cost of power supplied to the state's Indian reservations.
8. Other issues related to the generation, transmission, and distribution of electric energy.

SECTION 4. EXPIRATION DATE. This Act is effective through August 1, 2003, and after that date is ineffective.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 23, 1997
Filed March 24, 1997

CHAPTER 459

SENATE BILL NO. 2088

(Appropriations Committee)

(At the request of the Office of Management and Budget)

STATE PURCHASING

AN ACT to amend and reenact subsection 1 of section 54-44-11, sections 54-44.4-02, and 54-44.4-03 of the North Dakota Century Code, relating to providing a continuing appropriation from the state purchasing operating fund, delegation of purchasing authority by the director of the office of management and budget, and cooperation with political subdivisions for purchasing; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 54-44-11 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. The office of management and budget shall establish a state purchasing operating fund to be used for the procurement and maintenance of an inventory of equipment and supplies for the state departments and agencies. Funds in the state purchasing operating fund are hereby appropriated on a continuing basis and may be spent by the office of management and budget for the procurement and maintenance of an inventory of equipment and supplies as provided in this subsection. The director of the office of management and budget shall transfer any unobligated balance in the fund, in excess of one hundred twenty-five thousand dollars, to the state general fund at the end of each fiscal year.

SECTION 2. AMENDMENT. Section 54-44.4-02 of the North Dakota Century Code is amended and reenacted as follows:

54-44.4-02. Office of management and budget purchasing services. The office of management and budget shall purchase or lease or otherwise arrange for the procurement, for all state agencies and institutions in the executive branch of state government, all materials, furniture, fixtures, printing, insurance, and other commodities, except the following:

1. Land, buildings, space, or the rental thereof.
2. Telephone and telegraph service, and electrical light and power services.
3. Public books, maps, periodicals, and technical pamphlets.
4. Department of transportation materials, equipment, and supplies in accordance with the provisions of chapters 24-02 and 24-03.
5. Professional services pursuant to written contract.
6. Services for the maintenance or servicing of equipment by the manufacturer or authorized servicing agent of that equipment where the

maintenance or servicing can best be performed by the manufacturer or authorized service agent, or where such a contract would otherwise be advantageous to the state.

7. Emergency purchases the office of management and budget cannot make within the required time and which involve public health or public safety, or where immediate expenditures are necessary for repairs of state property to protect it against further loss or damage, or to prevent or minimize serious disruption in state services.
8. Such specific items or items costing less than a specified amount as determined and indicated by written directive by the director of the office of management and budget.

The office of management and budget shall purchase items as requested by agencies and institutions under the jurisdiction of the state board of higher education and the legislative and judicial branches of state government. The agencies and institutions under the jurisdiction of the state board of higher education ~~shall, together~~ with the office of management and budget, shall make such joint purchases of like items of high common usage as determined jointly by the agencies and institutions under the jurisdiction of the state board of higher education and the office of management and budget as will result in less cost to the state. The office of management and budget, pursuant to terms and conditions imposed by it, may agree with political subdivisions that have organized a purchasing group pursuant to a joint powers agreement under chapter 54-40.3 to cooperatively purchase certain specific items designated by the office of management and budget if the cooperative purchase will result in a benefit to the state and to the political subdivisions participating in the joint powers agreement.

SECTION 3. AMENDMENT. Section 54-44.4-03 of the North Dakota Century Code is amended and reenacted as follows:

54-44.4-03. Director of the office of management and budget may delegate purchasing authority. The director of the office of management and budget may delegate to state agencies and institutions the authority to make purchases of items not otherwise exempted by law ~~when the purchases are necessary due to an agency being able to obtain a lower price with equal quality, the perishability of items, or the location of the items.~~ Any delegation of purchasing authority must be in writing and must ~~indicate~~ specify what is to may be purchased by the agency or institution and the duration of the delegation.

Approved April 9, 1997
Filed April 10, 1997

CHAPTER 460**HOUSE BILL NO. 1125**

(Government and Veterans Affairs Committee)

(At the request of the Office of Management and Budget)

INSURANCE PROCEEDS EXPENDITURE

AN ACT to create and enact a new section to chapter 54-44.1 of the North Dakota Century Code, relating to agency authority to expend insurance proceeds; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Insurance recoveries appropriated. Any payment to a state budget unit for a loss under chapter 26.1-22 or for any loss covered by any property and casualty insurance is hereby appropriated to that budget unit to be used solely for the repair, rebuilding, or replacement of the destroyed or damaged building, property, or equipment. Insurance proceeds may be used for purposes other than the repair, rebuilding, or replacement of the destroyed property with the approval of the emergency commission or as appropriated by the legislative assembly.

Approved March 5, 1997

Filed March 6, 1997

CHAPTER 461

SENATE BILL NO. 2114

(Government and Veterans Affairs Committee)
(At the request of the Central Personnel Division)

MERIT SYSTEM GRANTS AND APPOINTMENT

AN ACT to create and enact two new sections to chapter 54-44.3 and a new subsection to section 54-44.3-12 of the North Dakota Century Code, relating to federal grants for merit systems, agencies subject to the state merit system, and the rules for merit system compliance; to amend and reenact sections 39-03-03, 39-03-13, 52-02-01, 52-02-06, 54-44.3-06, 54-44.3-09, 57-01-05, and 65-02-01 of the North Dakota Century Code, relating to appeals of highway patrol disciplinary actions, job service North Dakota merit appointments, personnel board meetings, duties of the central personnel division director with respect to the merit system, tax commissioner merit appointments, and workers' compensation merit appointments; and to repeal chapter 54-42 of the North Dakota Century Code, relating to the merit system council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-03-03 of the North Dakota Century Code is amended and reenacted as follows:

39-03-03. Patrolmen - Appointment - Removal - Duties. The superintendent, the assistant superintendent, and the patrolmen ~~shall~~ constitute the highway patrol. The highway patrol shall enforce the provisions of the laws of this state relating to the protection and use of highways and shall patrol ~~such~~ the highways and cooperate with sheriffs and police in enforcing the laws regulating the operation of vehicles and the use of highways. All patrolmen and the assistant superintendent must be appointed by the superintendent. Each patrolman so appointed ~~must be~~ is deemed a temporary appointee for a period of twelve months, during which period ~~he~~ the patrolman must be placed under probationary training and service and is subject to dismissal at the will of the superintendent. At the end of ~~such~~ the twelve-month period, ~~such~~ a temporary appointee must either be given a permanent appointment by the superintendent or must be automatically dismissed. The assistant superintendent and patrolmen who have received a permanent appointment are subject to removal for cause by the superintendent, but must be permitted to appeal a dismissal ~~to the North Dakota merit system council in accordance with rules and regulations promulgated under subsection 7 of section 54-42-03 under chapter 54-44.3,~~ provided that the removal of the assistant superintendent from ~~his~~ that person's position does not entitle ~~him~~ that person to appeal ~~such~~ the removal unless ~~he~~ that person is also dismissed from the patrol.

SECTION 2. AMENDMENT. Section 39-03-13 of the North Dakota Century Code is amended and reenacted as follows:

39-03-13. Additional powers of superintendent. In addition to ~~his~~ the superintendent's powers as a member of the highway patrol, the superintendent of the patrol has the following powers as administrative head of the patrol:

1. ~~He~~ The superintendent may organize the patrol into ~~such~~ divisions, bureaus, and districts as ~~he~~ the superintendent deems necessary.

2. ~~He~~ The superintendent may designate ranks, fix salaries with appropriate allowances for those ranks, and establish promotional procedures.
3. ~~He~~ The superintendent may take reasonable disciplinary action against members of the patrol for inefficiency, misconduct, insubordination, or violation of an established rule ~~or regulation~~, whenever ~~he~~ the superintendent deems ~~such~~ the actions necessary, provided that:
 - a. Where demotion in rank is summarily ordered against a member of the patrol as a disciplinary measure, to be limited to a one-grade reduction in rank, ~~such the~~ the order is appealable ~~to the North Dakota merit system council in accordance with rules and regulations promulgated under subsection 7 of section 54-42-03~~ under chapter 54-44.3.
 - b. Where a reduction in pay of a member of the patrol is summarily ordered as a disciplinary measure, it must be limited to one year's duration and ~~such the~~ the order is appealable ~~to the North Dakota merit system council in accordance with rules and regulations promulgated under subsection 7 of section 54-42-03~~ under chapter 54-44.3.
 - c. Suspension of pay for a member of the patrol for a period not exceeding seven days may be summarily ordered as a disciplinary measure, but an order for suspension of pay for a longer period is appealable ~~to the North Dakota merit system council in accordance with rules and regulations promulgated under subsection 7 of section 54-42-03~~ under chapter 54-44.3.
4. ~~Such~~ A suspension of pay for a member of the patrol may be summarily ordered not more than twice in one year as separate disciplinary measures, except that further suspensions are appealable ~~to the North Dakota merit system council in accordance with rules and regulations promulgated under subsection 7 of section 54-42-03~~ under chapter 54-44.3.

SECTION 3. AMENDMENT. Section 52-02-01 of the North Dakota Century Code is amended and reenacted as follows:

52-02-01. Job service North Dakota created. There is hereby created job service North Dakota which is ~~herewith~~ charged with administering the provisions of the North Dakota Unemployment Compensation Law and the provisions of the North Dakota state employment service, as set forth in chapter 52-08, which must be administered by a full-time salaried executive director, who is subject to the supervision and direction of the governor. The governor is authorized to appoint, fix the compensation of, and prescribe the duties of ~~such the~~ the executive director, provided that ~~such the~~ the appointment must be made on a nonpartisan, merit basis; ~~in accordance with the provisions set forth in chapter 54-42~~. The duties and responsibilities of the executive director extend to and include the power of full administration of the provisions of the North Dakota Unemployment Compensation Law, and the provisions of chapter 52-08 relating to the North Dakota state employment service, including job insurance programs, and the establishment and maintenance of free public employment offices. The executive director may also establish ~~such~~ separate divisions and make ~~such~~ separate appointments as ~~he may deem~~ the executive director deems advisable for efficient administration of the duties

and responsibilities imposed hereunder. Any ~~such~~ separate appointments must be on a nonpartisan, merit basis.

SECTION 4. AMENDMENT. Section 52-02-06 of the North Dakota Century Code is amended and reenacted as follows:

52-02-06. Merit system and personnel.

1. In accordance with chapter ~~54-42~~ 54-44.3 and rules adopted thereunder and on the basis of the authority granted under section 52-02-02, the bureau shall select and prescribe the duties and powers of ~~such~~ officers, employees, and other persons as may be necessary in the performance of its duties under the chapter; provided, that in cooperation with the ~~North Dakota merit system~~ central personnel division the bureau shall take such action as may be necessary to meet the personnel standards ~~promulgated~~ adopted by the secretary of labor pursuant to the Social Security Act [42 U.S.C. 301 et seq.] and the Wagner-Peyser Act [48 Stat. 113; 29 U.S.C. 49-49k], both as amended.
2. Notwithstanding any provision of law to the contrary, the bureau shall have authority to dismiss without notice any person employed in the administration of the North Dakota Unemployment Compensation Law upon receipt of notice of a determination by the United States civil service commission that ~~such~~ that person has violated the provisions of the Act of the Congress of the United States entitled "An Act to prevent pernicious political activities", as amended [18 U.S.C. 61(a)] and that ~~such~~ the violation warrants the removal of ~~such~~ that person from ~~his~~ employment.

SECTION 5. AMENDMENT. Section 54-44.3-06 of the North Dakota Century Code is amended and reenacted as follows:

54-44.3-06. Meetings. The board shall organize annually at the first meeting of each fiscal year. It shall meet at least ~~six times~~ once a year and at such times and places as are specified by call of the chairman or any three members of the board. All meetings must be open to the public. Three members ~~shall~~ constitute a quorum for the transaction of business. Three favorable votes are necessary for the passage of any resolutions or taking of any official action by the board at any meeting.

SECTION 6. AMENDMENT. Section 54-44.3-09 of the North Dakota Century Code is amended and reenacted as follows:

54-44.3-09. Board secretariat. ~~The director shall serve as secretary to the board in a nonvoting capacity.~~ The division shall serve as the secretariat to the board.

SECTION 7. A new subsection to section 54-44.3-12 of the 1995 Supplement to the North Dakota Century Code is created and enacted as follows:

Adopt rules, subject to the approval of the board, to ensure compliance with and resolve compliance issues relating to agencies required by state or federal law or rule to be subject to a merit personnel system.

SECTION 8. A new section to chapter 54-44.3 of the North Dakota Century Code is created and enacted as follows:

Acceptance of federal funds. The director is authorized to accept federal funds through grant-aided agencies or directly for the purpose of operating or ensuring operation of a merit personnel system.

SECTION 9. A new section to chapter 54-44.3 of the North Dakota Century Code is created and enacted as follows:

Agencies subject to merit system. All personnel employed by the department of human services, the regional offices of that department, job service North Dakota, the central personnel division, the state department of health, and other agencies or political subdivisions as may by federal law or rule be required to be subject to a merit system in order to obtain federal grants-in-aid are covered by the merit system provided in this chapter. Merit system coverage must also be provided to personnel employed as purchasing agents or buyers in the purchasing division of the office of management and budget. Other agencies, departments, or divisions and positions must be placed under a merit system in the manner and to the extent required by law.

SECTION 10. AMENDMENT. Section 57-01-05 of the North Dakota Century Code is amended and reenacted as follows:

57-01-05. State supervisor of assessments. The state tax commissioner shall appoint from a list of qualified applicants forwarded to him by the North Dakota merit system council a supervisor of assessments who must be a person trained and experienced in property appraisals and familiar with assessment and equalization procedures and techniques. ~~If the tax commissioner does not desire to appoint a supervisor of assessments from the list of candidates forwarded to him by the merit system council, he may request additional lists of qualified applicants from the council.~~ The supervisor of assessments shall ~~serve~~ serve at the pleasure of the state tax commissioner and office space must be furnished ~~him~~ to the supervisor of assessments by the commissioner.

The supervisor of assessments shall perform the following duties under the direction of the tax commissioner:

1. ~~He~~ The supervisor of assessments shall advise and give the various assessors in the state the necessary instructions and directions as to their duties under the laws of this state, to the end that a uniform assessment of all real and personal property in this state will be attained.
2. ~~He~~ The supervisor of assessments shall assist and instruct the various assessors in this state in the use of soil reconnaissance surveys, land classification methods, in the preparation and proper use of land maps and record cards, in the proper classification of real and personal property, and in the determination of proper standards of value.
3. ~~He has authority to~~ The supervisor of assessments may require the attendance of groups of assessors at meetings called by ~~him~~ the supervisor of assessments for the purpose of giving them further assistance and instruction as to their duties.
4. ~~He~~ The supervisor of assessments may make sales, market, and productivity studies and other studies of property assessments in the various counties and cities of this state for the purpose of properly advising the various assessors and directors of tax equalization in the state and for the purpose of recommending to the tax commissioner

changes to be made by the state board of equalization in the performance of the equalization powers and duties prescribed for it by section 57-13-04. In any sales, market, and productivity study made according to section 57-01-06, the county directors of tax equalization or city assessors, as the case may be, are responsible for compiling a record of sales of property made in ~~such the~~ county or city, and in conjunction with the county commissioners shall analyze ~~such the~~ sales for the purpose of advising the state supervisors of assessments as to the value of using ~~such the~~ sales in any such study. ~~Such The~~ compilations must be forwarded to the state supervisor of assessments with the findings of the county director of tax equalization, city assessors, and the board of county commissioners. In any county or city or any part thereof where the number of sales of properties is insufficient for making a sales, market, and productivity study, the county director of tax equalization or city assessor, as the case may be, in cooperation with the state supervisor of assessments or ~~his~~ that person's assistants shall make appraisals of properties in order to determine the market value.

5. ~~He~~ The supervisor of assessments shall cooperate with ~~the~~ North Dakota state university of agriculture and applied science in the development of a soil mapping program, a land classification system, valuation studies, and other matters relating to the assessment of property, and shall provide for the use of such information and procedure at the earliest possible date by the assessors of this state.
6. ~~He~~ The supervisor of assessments has general supervision of assessors and county directors of tax equalization pertaining to methods and procedures of assessment of all property and has authority to require all county directors of tax equalization to do any act necessary to obtain uniform methods and procedures of assessment.
7. ~~He~~ The supervisor of assessments shall perform such other duties relating to assessment and taxation of property as the tax commissioner ~~shall direct~~ directs.

²⁵ **SECTION 11. AMENDMENT.** Section 65-02-01 of the North Dakota Century Code is amended and reenacted as follows:

65-02-01. Workers compensation bureau - Executive director. The bureau must be maintained for the administration of this title. The governor shall appoint the director of the bureau who is subject to the supervision and direction of the governor and who ~~shall serve~~ serves at the pleasure of the governor. The appointment must be on a nonpartisan, merit basis; ~~in accordance with chapter 54-42.~~ The governor shall set the compensation and prescribe the duties of the director. The director may appoint the director of any division of the bureau which is established by the director. The appointment of a division director must be on a nonpartisan, merit basis.

²⁵ Section 65-02-01 was also amended by section 2 of House Bill No. 1440, chapter 528.

SECTION 12. REPEAL. Chapter 54-42 of the North Dakota Century Code is repealed.

Approved March 25, 1997

Filed March 26, 1997

CHAPTER 462

SENATE BILL NO. 2237

(Senators DeMers, Krebsbach, Lips, W. Stenehjem)
(Representatives Maragos, Wentz)

COMMUNITY ACTION AGENCIES

AN ACT to create and enact two new sections to chapter 54-44.5 of the North Dakota Century Code, relating to community action agencies; and to amend and reenact section 54-44.5-01 of the North Dakota Century Code, relating to the office of intergovernmental assistance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-44.5-01 of the North Dakota Century Code is amended and reenacted as follows:

54-44.5-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Community action agency" means a not-for-profit corporation that has authority under its charter and bylaws to receive funds to administer community action programs and which was officially designated as a community action agency or a community action program under section 210 of the Economic Opportunity Act of 1964 [Pub. L. 88-452; 78 Stat. 508; 42 U.S.C. 2701 et seq.], unless the community action agency or a community action program lost its designation as a result of failure to comply with the provisions of the federal act.
2. "Community action program" means a community-based and operated program that includes an intake assessment and referral capability in each of its counties and is designed to include a number of projects or components to provide a range of services and activities having a measurable and potentially major impact on causes and conditions of poverty in the community or those areas of the community where poverty is a particularly acute problem. These services and activities may include activities designed to provide opportunities for eligible persons to:
 - a. Secure and retain meaningful employment;
 - b. Attain an adequate education;
 - c. Make better use of available income;
 - d. Obtain and maintain adequate housing and suitable living environment;
 - e. Obtain emergency assistance through grants and loans to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing, and employment-related assistance;

- f. Maximize the role community action agencies play in supportive mechanisms available to North Dakota families;
 - g. Remove obstacles and solve problems that block achievement of self-sufficiency;
 - h. Achieve greater participation in the affairs of the community; and
 - i. Make more effective use of other programs.
3. "Director" means the director of the office of intergovernmental assistance.
2. 4. "Office" means the office of intergovernmental assistance.

SECTION 2. Two new sections to chapter 54-44.5 of the North Dakota Century Code are created and enacted as follows:

Community action agency board of directors - Qualifications - Powers - Duties. Each community action agency must have a board of directors, as provided by the bylaws of the corporation, of not less than nine nor more than fifty-one members. One-third of the members of the board must be elected public officials, currently holding office, or their representatives, except that if the number of elected officials reasonably available and willing to serve is less than one-third of the membership of the board, membership on the board by appointive public officials may be counted in meeting the one-third requirement. At least one-third of the members must be persons chosen in accordance with democratic selection procedures adequate to assure that they are representative of the poor in the area served, and the remainder of the members must be officials or members of business, industry, labor, religious, welfare, education, or other major groups and interests in the community. The board shall determine personnel, fiscal, and program policies and shall approve proposals of financial assistance and the disbursement of funds.

Funding - Community action agency's share of funds - How determined.

1. If the Congress of the United States approves a block grant system to fund social programs, the state may use, subject to legislative appropriation, the block grant funds or in-kind services to provide a level of financial assistance for community action agencies to carry out community action programs through the community services block grants pursuant to the federal Community Services Block Grant Act [Pub. L. 97-35; 95 Stat. 511; 42 U.S.C. 9903] and other federal funding sources that may be appropriate.
2. The office shall distribute the federal community services block grant funds received under the federal Community Service Block Grant Act [Pub. L. 97-35; 95 Stat. 511; 42 U.S.C. 9903] and shall allocate the funds as follows:
 - a. At least ninety percent must be allocated to community action agencies;
 - b. The greater of fifty-five thousand dollars or five percent may be allocated for state administrative expenses; and

- c. Not more than five percent may be allocated for state discretionary projects.
- 3. Each community action agency, in accordance with procedures established by the office, is entitled to receive a portion of available federal Community Services Block Grant Act [Pub. L. 97-35; 95 Stat. 511; 42 U.S.C. 9903] funds based on that agency's poverty population relative to the state's total poverty population. The office shall determine poverty levels using criteria established by the United States office of management and budget.
- 4. Each community action agency is governed by procedures established by the office as it relates to the community services block grant program.

Approved April 3, 1997

Filed April 3, 1997

CHAPTER 463

HOUSE BILL NO. 1137

(Government and Veterans Affairs Committee)

(At the request of the Public Employees Retirement System)

STATE RETIREMENT DATE AND BENEFITS

AN ACT to amend and reenact subdivision a of subsection 3 and subdivisions a and e of subsection 4 of section 54-52-17, sections 54-52-17.5, and 54-52-17.10 of the North Dakota Century Code, relating to normal retirement date, computation of benefits, disability retirement benefits, postretirement adjustments, and prior service retiree adjustments under the public employees retirement system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁶ **SECTION 1. AMENDMENT.** Subdivision a of subsection 3 of section 54-52-17 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- a. Normal retirement date, except for a national guard security officer or firefighter, is:
 - (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
 - (2) When the member has a combined total of years of service credit and years of age equal to ~~eighty-eight~~ eighty-five and has not received a retirement benefit under this chapter.

²⁷ **SECTION 2. AMENDMENT.** Subdivisions a and e of subsection 4 of section 54-52-17 of the 1995 Supplement to the North Dakota Century Code are amended and reenacted as follows:

- a. Normal retirement benefits for all retirees, except supreme and district court judges, reaching normal retirement date equal an annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which is determined as follows:
 - (1) Service benefit equals one and ~~seventy-four~~ seventy-seven hundredths percent of final average salary multiplied by the number of years of service employment.

²⁶ Section 54-52-17 was also amended by section 2 of House Bill No. 1137, chapter 463, and section 38 of Senate Bill No. 2046, chapter 51.

²⁷ Section 54-52-17 was also amended by section 1 of House Bill No. 1137, chapter 463, and section 38 of Senate Bill No. 2046, chapter 51.

- (2) Prior service benefit equals one and ~~seventy-four~~ seventy-seven hundredths percent of final average salary multiplied by the number of years of prior service employment.
 - (3) All participants who retired before ~~January 4, 1994~~ August 1, 1997, are entitled to benefits calculated at one and ~~seventy-four~~ seventy-seven hundredths percent of final average salary, multiplied by the number of years of service employment, with the increased benefits payable beginning ~~January 4, 1994~~ August 1, 1997.
- e. Disability retirement benefits are twenty-five percent of the member's final average salary. The minimum monthly disability retirement benefit under this section is one hundred dollars. A participant who, on July 31, 1997, is receiving disability retirement benefits that are not based upon the benefit multiplier is entitled to receive an increase in benefits equal to five percent of the individual's present benefit with the increased benefits payable beginning August 1, 1997.

SECTION 3. AMENDMENT. Section 54-52-17.5 of the North Dakota Century Code is amended and reenacted as follows:

54-52-17.5. Postretirement adjustments. An individual who, on ~~June 30, 1989~~ July 31, 1997, is receiving retirement benefits under ~~this chapter~~ subdivision a of subsection 4 of section 54-52-17 is entitled to receive an increase in benefits equal to ~~five and seventy-six hundredths~~ three percent of the individual's present benefit with the increase payable beginning August 1, 1997.

SECTION 4. AMENDMENT. Section 54-52-17.10 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-52-17.10. Prior service retiree adjustment. Prior service retirees who are receiving benefits under this chapter on ~~December 31, 1993~~ July 31, 1997, are entitled to receive an increase in benefits equal to ~~one~~ five percent of the individual's present benefit, with the increased benefits payable beginning ~~January 4, 1994~~ August 1, 1997. A prior service retiree is a former participating employee who receives a supplemental monthly payment from the retirement system based upon the original prior service credit system.

Filed April 7, 1997

NOTE: The Governor's veto of House Bill No. 1137 was not sustained. For the text of the Governor's veto message see chapter 557.

CHAPTER 464

HOUSE BILL NO. 1140

(Government and Veterans Affairs Committee)

(At the request of the Public Employees Retirement System)

PERS ADMINISTRATION

AN ACT to amend and reenact subsection 3 of section 39-03.1-10.1, section 39-03.1-30, subsection 5 of section 54-52-17.4, sections 54-52-17.8, 54-52-26, 54-52-27, and 54-52.2-03 of the North Dakota Century Code, relating to purchase of service credit for veterans and purchase of sick leave under the highway patrolmen's retirement system, purchase of service credit, benefit limitations, confidentiality of records, conversion of sick leave under the public employees retirement system, and administration of the deferred compensation program; and to provide for retroactive application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 39-03.1-10.1 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. A member may elect to purchase qualified military service credit pursuant to the Veterans' Reemployment Rights Act [Pub. L. 93-508; 88 Stat. 1594; 38 U.S.C. 2024 et seq.] Uniformed Services Employment and Reemployment Rights Act of 1994 [Pub. L. 103-353; 108 Stat. 3150; 38 U.S.C. 4301-4307] at any time prior to retirement by submitting a valid application and paying the member portion pursuant to rules adopted by the board. It is the responsibility of the applicant to supply any documentation required by the board.

SECTION 2. AMENDMENT. Section 39-03.1-30 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-03.1-30. Conversion of sick leave. At termination of eligible employment a member is entitled to credit in the retirement system for each month of unused sick leave, as certified by the employer, if the member pays an amount equal to the member's final average salary, times the number of months of sick leave converted, times the employer and employee contribution, plus one percent for the retiree health benefits program. Hours of sick leave equal to a fraction of a month are deemed to be a full month for purposes of conversion to service credit. A member may convert all of the member's certified sick leave or a part of that person's certified sick leave. All conversion payments must be made within sixty days of termination and before the member receives a retirement annuity unless the member has submitted an approved payment plan to the board.

SECTION 3. AMENDMENT. Subsection 5 of section 54-52-17.4 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5. A participating member, or a member not presently under covered employment, may request credit for qualified military service pursuant to the Veterans' Reemployment Rights Act [Pub. L. 93-508; 88 Stat. 1594;

~~38 U.S.C. 2024 et seq.~~ Uniformed Services Employment and Reemployment Rights Act of 1994 [Pub.L. 103-353; 108 Stat. 3150; 38 U.S.C. 4301-4307]. The member shall submit a qualified application with proof of eligible military service to the board in order to receive credit for military service. For credit on and after July 1, 1966, the member must pay four percent times the member's most recent monthly salary, times the number of months of credit being purchased, plus interest at a rate determined by the board. In addition, the governmental unit, or in the case of a member not under covered employment the last employing governmental unit, shall pay to the retiree health benefits fund established under section 54-52.1-03.2 one percent times the member's present monthly salary times the member's months of credit being purchased. For credit before July 1, 1966, no contribution is required.

SECTION 4. AMENDMENT. Section 54-52-17.8 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-52-17.8. Benefit limitations. Benefits with respect to a member of the public employees retirement system on or after January 1, 1990, may not exceed the maximum benefits specified under section 415 of the Internal Revenue Code [26 U.S.C. 415] for governmental plans. ~~This section constitutes an election under section 415(b)(10)(C) of the Internal Revenue Code [26 U.S.C. 415(b)(10)(C)] with respect to a member who first became a member before January 1, 1990.~~

SECTION 5. AMENDMENT. Section 54-52-26 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-52-26. Confidentiality of records. All records relating to the retirement benefits of a member or a beneficiary under this chapter and chapter 54-52.2 are confidential and are not public records. This section does not prohibit any party from obtaining this information from other agencies or governmental sources. Information and records may be disclosed, under rules adopted by the board, only to:

1. A person to whom the member has given written consent to have the information disclosed.
2. A person legally representing the member, upon proper proof of representation, and unless the member specifically withholds consent.
3. A person authorized by a court order.
4. A member's participating employer, limited to information concerning the member's years of service credit and years of age. Any information provided to the member's participating employer under this subsection must remain confidential.

SECTION 6. AMENDMENT. Section 54-52-27 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-52-27. Conversion of sick leave. At termination of eligible employment a member is entitled to credit in the retirement system for each month of unused sick leave, as certified by the member's employer, if the member pays an amount equal to the member's final average salary, times the number of months of sick leave converted, times the percent of employer and employee contributions to the

retirement program of the member, plus one percent for the retiree health benefits program. Hours of sick leave equal to a fraction of a month are deemed to be a full month for purposes of conversion to service credit. A member may convert all of the member's certified sick leave or a part of the member's certified sick leave. All conversion payments must be made within sixty days of termination of employment and before the member receives a retirement annuity unless the member has submitted an approved payment plan to the board.

SECTION 7. AMENDMENT. Section 54-52.2-03 of the North Dakota Century Code is amended and reenacted 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 is under the direction of the public employees retirement board. Each county, city, or other political subdivision shall designate an officer to administer the deferred compensation program or appoint the public employees retirement board to administer the program ~~in~~ on its behalf. Payroll reductions must be made in each instance by the appropriate payroll officer. The 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. Not later than January 1, 1999, all plan assets and income must be held in trust, custodial accounts, or contracts as described in section 401(f) of the Internal Revenue Code [26 U.S.C. 401(f)] for the exclusive benefit of participants and their beneficiaries as required by section 457 of the Internal Revenue Code [26 U.S.C. 457]. Once the trust, custodial account, or contract is established as required by this section, the board shall act as fiduciary of the plan to the extent required by section 457 of the Internal Revenue Code [26 U.S.C. 457] and the board is authorized to do all things necessary for the proper administration of the plan to ensure that the plan maintains its qualified status.

SECTION 8. RETROACTIVE APPLICATION OF ACT. Section 4 of this Act is retroactive to July 3, 1991.

Approved March 26, 1997
Filed March 26, 1997

CHAPTER 465**HOUSE BILL NO. 1138**

(Government and Veterans Affairs Committee)
(At the request of the Public Employees Retirement System)

JUDGES POSTRETIREMENT ADJUSTMENTS

AN ACT to create and enact a new section to chapter 54-52 of the North Dakota Century Code, relating to postretirement adjustments for supreme and district court judges under the public employees retirement system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-52 of the North Dakota Century Code is created and enacted as follows:

Judges postretirement adjustments. A supreme or district court judge who, on December 31, 1997, is receiving retirement benefits under subdivision b of subsection 4 of section 54-52-17 is entitled to receive an increase in benefits equal to two percent of the individual's present benefits with the increase payable beginning January 1, 1998. A supreme or district court judge who, on December 31, 1998, is receiving retirement benefits under subdivision b of subsection 4 of section 54-52-17 is entitled to receive an increase in benefits equal to two percent of the individual's present benefits with the increase payable beginning January 1, 1999.

Approved April 1, 1997
Filed April 2, 1997

CHAPTER 466**HOUSE BILL NO. 1141**

(Government and Veterans Affairs Committee)

(At the request of the Public Employees Retirement System)

RETIREE HEALTH BENEFIT OPTIONS

AN ACT to create and enact a new subsection to section 54-52.1-03.3 of the North Dakota Century Code, relating to benefit options under the retiree health benefits plan; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 54-52.1-03.3 of the 1995 Supplement to the North Dakota Century Code is created and enacted as follows:

The board may, as an alternative to the calculation of the allowable monthly credit under subsection 2, provide actuarially reduced benefit options for the member and the member's surviving spouse including a one hundred percent joint and survivor option, a fifty percent joint and survivor option, or a five-year or ten-year certain option.

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

Approved April 1, 1997

Filed April 2, 1997

CHAPTER 467

SENATE BILL NO. 2034

(Legislative Council)
 (Employee Benefits Programs Committee)
 (Senators Krebsbach, C. Nelson)
 (Representatives Wardner, Sabby)

EMPLOYEE ASSISTANCE PROGRAM

AN ACT to amend and reenact sections 54-52.1-04 and 54-52.1-04.9 of the North Dakota Century Code, relating to employee assistance program benefits coverage under the uniform group insurance program; to provide for transition; to provide an effective date; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-52.1-04 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-04. Board to contract for insurance. The board shall receive bids for the providing of hospital benefits coverage, medical benefits coverage, ~~and~~ life insurance benefits coverage for a specified term, and employee assistance program services, and shall accept the bid of and contract with the carrier that in the judgment of the board ~~shall best serve~~ serves the interests of the state and its eligible employees. ~~A solicitation for bids must be made within ninety days of July 1, 1971. Subsequent solicitations~~ Solicitations must be made not later than ninety days ~~prior to~~ before the expiration of an existing uniform group insurance contract. Bids must be solicited by advertisement in ~~such a~~ a manner ~~as~~ selected by the board that will provide reasonable notice to prospective bidders. In preparing bid proposals and evaluating bids, the board may utilize the services of consultants on a contract basis in order that the bids received ~~can~~ may be uniformly compared and properly evaluated. In determining which bid, if any, will best serve the interests of eligible employees and the state, the board shall give adequate consideration to the following factors:

1. The economy to be effected.
2. The ease of administration.
3. The adequacy of the coverages.
4. The financial position of the carrier, with special emphasis as to its solvency.
5. The reputation of the carrier and ~~such any~~ any other information ~~as that~~ is available tending to show past experience with the carrier in matters of claim settlement, underwriting, and services.

The board may reject any or all bids and, in the event it does so, shall again solicit bids as provided in this section. The board may establish a plan of self-insurance for providing health insurance benefits coverage only under an administrative services only (ASO) contract or a third party administrator (TPA) contract.

SECTION 2. AMENDMENT. Section 54-52.1-04.9 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-52.1-04.9. Uniform group insurance program - Employee assistance program. The board ~~may~~ shall establish an employee assistance program available to persons in the medical and hospital benefits coverage group. The premium for this coverage must be paid as provided by section 54-52.1-06. The board shall receive bids for this program under section 54-52.1-04. Each department, board, or agency shall obtain employee assistance program services through the board for eligible employees and may not enter into any agreement to obtain employee assistance program services with a third-party provider except that a department, board, or agency may use its own employee assistance program services to the extent such services are provided by personnel of that department, board, or agency. As used in this section, "employee assistance program" means an employer-sponsored service for employees under which a professional employee assistance program staff assists employees and their families in finding help for emotional, drug, alcohol, family, health, and other personal or job-related problems that may be affecting their work performance.

SECTION 3. TRANSITION. To provide for a transitional employee assistance program, the public employees retirement system board may establish employee assistance program plans for participating employers who have not contracted for employee assistance program services and shall assume contractual authority for those participating state employers who have already contracted for employee assistance program services. All contracts entered into or extended during the transitional period are exempt from the requirements of sections 54-52.1-04 and 54-52.1-06.

SECTION 4. EFFECTIVE DATE - EXPIRATION DATE. Sections 1 and 2 of this Act become effective on July 1, 1999. Section 3 of this Act is effective through June 30, 1999, and after that date is ineffective.

SECTION 5. EMERGENCY. Section 3 of this Act is declared to be an emergency measure.

Approved March 19, 1997
Filed March 19, 1997

CHAPTER 468

SENATE BILL NO. 2100 (Senator C. Nelson)

DISTRICT HEALTH UNIT PARTICIPATION IN PRETAX BENEFITS PROGRAM

AN ACT to amend and reenact sections 54-52.3-01 and 54-52.3-03 of the North Dakota Century Code, relating to participation by district health units in the pretax benefits program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-52.3-01 of the North Dakota Century Code is amended and reenacted as follows:

54-52.3-01. Pretax benefits program for public employees. The public employees retirement system board may establish a pretax benefits program for all state employees and employees of district health units under which a state an employee may reduce the employee's salary and elect benefits to the extent of the reduction. ~~The board may permit political subdivisions to participate in the pretax benefits program.~~ Any A participating political subdivision district health unit shall comply with the program conditions and pay all fees established by the board.

SECTION 2. AMENDMENT. Section 54-52.3-03 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-52.3-03. Employer savings used to defray expenses of administering program - Continuing appropriation. The office of management and budget shall transfer funds from the savings accruing to the agencies' salaries and wages line item, as a result of the diminution of the state's employer contribution for the Federal Insurance Contribution Act tax, to a payroll clearing account. The office of management and budget shall transfer funds from the payroll clearing account to the board as necessary to defray the reasonable expenses of administering the pretax benefits program established under this chapter, including expenses associated with the program's medical spending account. Any revenue collected by the board from participating ~~political subdivisions~~ district health units must be used, and is hereby appropriated, to defray the expenses of administering the program. The amount necessary to pay consultants retained by the board, any insurance costs associated with the medical spending account, and medical reimbursements for the medical spending account if funds are insufficient to pay claims are hereby appropriated from the savings and revenue generated by the program. All other expenses of administering the program must be paid in accordance with the agency's appropriation authority as established by the legislative assembly. The director of the office of management and budget may decrease or suspend the transfer of the savings accruing to the agencies' salaries and wages line item to the payroll clearing account upon determination that the funds deposited under this section are sufficient to offset anticipated obligations. Notwithstanding other provisions in this section, the public employees retirement system board, or any successor state agency, may not establish, enroll, or administer any pretax benefits program for a political subdivision or any other public or private business or entity, except for any program established

specifically for employees of the state and employees of district health units. ~~The board may continue administering any pretax benefits program established for a political subdivision before January 1, 1991, through the end of the plan year.~~

Approved March 19, 1997

Filed March 19, 1997

CHAPTER 469

SENATE BILL NO. 2084

(Appropriations Committee)

(At the request of the Office of Administrative Hearings)

ADMINISTRATIVE HEARINGS FUND

AN ACT to amend and reenact subsection 3 of section 54-57-07 of the North Dakota Century Code, relating to the administrative hearings fund of the office of administrative hearings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁸ **SECTION 1. AMENDMENT.** Subsection 3 of section 54-57-07 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. A special fund is established in the state treasury and designated as the administrative hearings fund. The ~~director~~ office of administrative hearings shall deposit in the fund all moneys received by ~~the office of administrative hearings~~ it in payment for providing ~~temporary services rendered by any administrative law judges to judge in the conduct of an administrative hearings hearing~~ and related proceedings under this chapter, as well as all moneys received by the office in payment for mileage, meals, and lodging in connection with providing any administrative law judge to conduct an administrative hearing and related proceedings. The moneys in the fund are a standing and continuing appropriation and are appropriated, as necessary, for the following purposes:
 - a. For the ~~director~~ office of administrative hearings to ~~contract with and make pay for salaries, wages, benefits, operating expenses, and equipment, including~~ payment to temporary administrative law judges, as necessary, for the purpose of providing requested administrative law judges to agencies, to any unit of local government in this state, to any tribal government in this state, or to the judicial branch.
 - b. For the ~~director~~ office of administrative hearings to pay mileage, meals, and lodging to any administrative law judges, as necessary, in connection with the services to be provided ~~by~~ under this chapter.

Approved March 20, 1997
Filed March 20, 1997

²⁸ Section 54-57-07 was also amended by section 4 of Senate Bill No. 2018, chapter 47.

CHAPTER 470

SENATE BILL NO. 2399

(Senator W. Stenehjem)

(Representative Kretschmar)

(Approved by the Delayed Bills Committee)

TRIBAL-STATE GAMING COMPACT APPROVAL

AN ACT to provide approval of amendments and renewals of tribal-state gaming compacts and for an open records exception for tribal gaming financial information submitted to a state agency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Tribal-state gaming compact - Definition. A tribal-state gaming compact is a duly executed agreement between the state and a federally recognized Indian tribe as approved by the secretary of the department of interior of the United States pursuant to the Indian Gaming Regulatory Act of 1988 [Pub. L. 100-497; 102 Stat. 2467; 25 U.S.C. 2701 et seq.].

SECTION 2. Tribal gaming records not subject to disclosure - Exceptions. Except as provided in each tribal-state gaming compact, all tribal gaming records, including trade secret and proprietary information as defined in section 44-04-18.4, submitted to an agency of this state are confidential and are not public records subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota.

SECTION 3. Tribal-state gaming compact - Creation, renewals, and amendments. The governor or the governor's designee may represent the state in any gaming negotiation in which the state is required to participate pursuant to 25 U.S.C. 2701 et seq. by any federally recognized Indian tribe and, on behalf of the state, may execute a gaming compact between the state and a federally recognized Indian tribe, subject to the following:

1. If the legislative assembly is not in session at the time gaming negotiations are being conducted, the chairman and vice chairman of the legislative council or the designee of the chairman or vice chairman may attend all negotiations and brief the legislative council on the status of the negotiations.
2. If the legislative assembly is in session at the time negotiations are being conducted, the majority and minority leaders of both houses, or their designees, may attend all negotiations and brief their respective houses on the status of the negotiations.
3. The compact may authorize an Indian tribe to conduct gaming that is permitted in the state for any purpose by any person, organization, or entity.
4. For the purposes of this Act, the term "gaming that is permitted in the state for any purpose by any person, organization, or entity" includes any game of chance that any Indian tribe was permitted to conduct

under a tribal-state gaming compact that was in effect on the effective date of this Act.

5. The compact may not authorize gaming to be conducted by an Indian tribe at any off-reservation location not permitted under a tribal-state gaming compact in effect on the effective date of this Act, except that in the case of the tribal-state gaming compact between the Turtle Mountain Band of Chippewa and the state, gaming may be conducted on land within Rolette County held in trust for the Band by the United States government which was in trust as of the effective date of the Indian Gaming Regulatory Act of 1988 [Pub. L. 100-497, 102 Stat. 2467; 25 U.S.C. 2701 et seq.].
6. The compact may not obligate the state to appropriate state funds; provided, however, the state may perform services for reimbursement.
7. The negotiations between the tribe and the state must address the possibility of a mutual effort of the parties to address the issue of compulsive gambling.
8. If the legislative assembly is not in session when the negotiations are concluded, the governor shall forward a copy of the compact as finally negotiated to each member of the legislative council at least twenty-one days before the compact is signed.
9. If the legislative assembly is in session when the negotiations are concluded, the governor shall forward a copy of the compact as finally negotiated to each member of the legislative assembly at least twenty-one days before the compact is signed.
10. Before execution of any proposed tribal-state gaming compact or amendment thereto, the governor shall conduct one public hearing on the proposed compact or amendment.

Approved April 10, 1997
Filed April 10, 1997