

Fifty-sixth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Tuesday, the fifth day of January, one thousand nine hundred and ninety-nine

SENATE BILL NO. 2360
(Senators Wardner, Krebsbach)
(Representatives D. Johnson, Klein)

AN ACT to amend and reenact sections 12-46-05, 12-47-07, 15-02-01, 15-02-04, 18-01-01, 20.1-02-06, 20.1-02-08, 25-01-04, 27-03-02, 37-15-07, 37-18-07, subsection 3 of section 37-18.1-03, sections 39-03-06, 44-03-01, 49-01-03, 54-11-07, 54-23.3-04, 54-44-03, subsection 2 of section 54-52-04, sections 55-02-01.1, 61-03-02, 65-02-02, and 65-04-30 of the North Dakota Century Code, relating to bonds required of state officers; and to repeal sections 6-01-12, 15-12-06, 20.1-02-12, 27-04-02, 44-01-13, 54-06-11, 54-09-06, 54-10-03, 54-11-14, 54-18-08, and 57-01-01 of the North Dakota Century Code, relating to bonds required of state officers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-46-05 of the North Dakota Century Code is amended and reenacted as follows:

12-46-05. Oath and bond of superintendent. The superintendent, before entering upon the duties of his the office, shall take the oath prescribed for civil officers and furnish a bond in the penal sum of ten thousand dollars, which shall conform to the provisions of law applicable to the bonds of state officers and employees. The bond and oath shall must be filed and retained in the office of the state treasurer.

SECTION 2. AMENDMENT. Section 12-47-07 of the North Dakota Century Code is amended and reenacted as follows:

12-47-07. Qualification of warden, officers, and employees. The warden and deputy wardens, before entering upon the duties of their offices, shall take the oath prescribed for civil officers and furnish a bond in the penal sum of ten thousand dollars, which shall conform to the provisions of law applicable to the bonds of state officers and employees. The bond and oath shall must be filed and retained in the office of the state treasurer. Each of the other officers and employees of the penitentiary, before entering upon the duties of his the appointment, shall take and subscribe the same oath, which shall must be filed with and retained by the warden.

SECTION 3. AMENDMENT. Section 15-02-01 of the North Dakota Century Code is amended and reenacted as follows:

15-02-01. Commissioner of university and school lands - Appointment - Oath and bond. The board of university and school lands shall appoint a commissioner of university and school lands. All of the official acts of the commissioner are subject to the approval and supervision of the board. Before entering upon his the duties of the commissioner, the commissioner shall take the oath prescribed for civil officers and shall furnish a bond in the penal sum of ten thousand dollars.

SECTION 4. AMENDMENT. Section 15-02-04 of the North Dakota Century Code is amended and reenacted as follows:

15-02-04. Deputy commissioner - Appointment - Oath - Bond. The commissioner, with the consent of the board, may appoint a deputy. Before entering upon any of his duties the deputy shall take and subscribe the oath of office required by law for civil officers and shall furnish to the state a bond in the penal sum of five thousand dollars.

SECTION 5. AMENDMENT. Section 18-01-01 of the North Dakota Century Code is amended and reenacted as follows:

18-01-01. Appointment of fire marshal - Appointment and salaries of deputies and assistants - ~~Bonds~~ - Budget. The attorney general shall appoint the state fire marshal and supervise the operation of the state fire marshal department. The state fire marshal shall manage the fire marshal department and shall perform the duties imposed on the state fire marshal by ~~the provisions of this chapter.~~

The state fire marshal shall appoint such deputies and other employees as the state fire marshal deems necessary to carry out ~~the provisions of this chapter~~ within the limits of legislative appropriations ~~therefor.~~

Before entering upon their duties, the state fire marshal and each deputy appointed under this section shall ~~give a bond to the state of North Dakota in the penal sum of five thousand dollars, conditioned for the faithful discharge of their duties and shall~~ take and subscribe the constitutional oath of office and file the same oath in the office of the secretary of state.

The fire marshal department must be operated in conjunction with the bureau of criminal investigation. The budget for the fire marshal department must be submitted as part of the attorney general's budget.

SECTION 6. AMENDMENT. Section 20.1-02-06 of the North Dakota Century Code is amended and reenacted as follows:

20.1-02-06. Deputy director - Appointment, removal, oath, ~~bond~~, reports. The director shall appoint, and may remove at pleasure, a deputy director who is under the director's direct control and supervision. The deputy, within ten days after the date of that person's appointment, shall take and file the oath prescribed for civil officers ~~and furnish a bond in the penal sum of five thousand dollars. The bond must conform to and must be filed in accordance with the provisions of law applicable to the bonds of state officers.~~ The oath must be filed in the office of the secretary of state. The deputy director shall make monthly and annual reports to the director in the manner required by the director.

SECTION 7. AMENDMENT. Section 20.1-02-08 of the North Dakota Century Code is amended and reenacted as follows:

20.1-02-08. ~~Bond and oath~~ Oath of chief game warden. The chief game warden, within ten days of appointment, shall take the oath prescribed for civil officers and file it with the secretary of state. ~~The chief game warden shall furnish a bond in the penal sum of five thousand dollars.~~

SECTION 8. AMENDMENT. Section 25-01-04 of the North Dakota Century Code is amended and reenacted as follows:

25-01-04. Superintendent of each institution to qualify. The superintendent of each of the institutions mentioned in this chapter, before entering upon the duties of office, shall take the oath prescribed for civil officers ~~and shall furnish a bond in such sum as may be fixed by the supervising officer which must conform to the provisions of law applicable to the bonds of state officers and employees. Each such bond must be filed by the supervising officer in the office of the secretary of state.~~

SECTION 9. AMENDMENT. Section 27-03-02 of the North Dakota Century Code is amended and reenacted as follows:

27-03-02. Clerk of supreme court - Oath ~~and bond~~ - Deputy. The clerk of the supreme court, before entering upon ~~his~~ the clerk's duties, shall qualify by taking the oath prescribed for civil officers ~~and by giving an official bond in the penal sum of three thousand dollars. Such~~ The clerk may appoint a deputy who shall take and subscribe the oath prescribed for civil officers and file the same in the supreme court. The clerk is responsible for the acts of ~~his~~ the deputy.

SECTION 10. AMENDMENT. Section 37-15-07 of the North Dakota Century Code is amended and reenacted as follows:

37-15-07. Commandant of veterans' home - Appointment - Qualifications - Term - Salary ~~-Bond.~~ The appointment, qualifications, term of office, and salary of the commandant of the veterans'

home must be as prescribed in section 37-18.1-03. ~~The commandant must be bonded through the state bonding fund in the amount as determined by the administrative committee on veterans' affairs, except that the amount of the bond must be at least five thousand dollars.~~

SECTION 11. AMENDMENT. Section 37-18-07 of the North Dakota Century Code is amended and reenacted as follows:

37-18-07. Commissioner - Appointment - Qualifications - Term - Salary -~~Bond~~. The appointment, qualifications, term of office, and salary of the commissioner must be as prescribed in section 37-18.1-03. The commissioner must be ~~bonded through the state bonding fund in the amount as determined by the administrative committee on veterans' affairs, provided that such bond must be in a minimum amount of five thousand dollars.~~ He must be allowed such amounts for travel, clerkhire, and expenses as may be prescribed from time to time by legislative appropriations.

SECTION 12. AMENDMENT. Subsection 3 of section 37-18.1-03 of the North Dakota Century Code is amended and reenacted as follows:

3. The committee shall appoint the commandant of the veterans' home and the commissioner of the department of veterans' affairs. Individuals appointed to these positions must be bona fide residents of the state, and must qualify as a veteran as defined in section 37-01-40. Their terms of office are for two years, commencing on July 1, 1971, and on every second anniversary thereof. The committee shall determine the salaries paid to the commandant of the veterans' home and the commissioner of the department of veterans' affairs within the limits of legislative appropriation. ~~Both officers must be bonded through the state bonding fund in the sum of five thousand dollars.~~ The commandant of the veterans' home and the commissioner of veterans' affairs shall serve as the executive secretary for their respective subcommittees. The commandant and the commissioner have no vote in the affairs of the subcommittees.

SECTION 13. AMENDMENT. Section 39-03-06 of the North Dakota Century Code is amended and reenacted as follows:

39-03-06. Oath and ~~bond~~ required of superintendent, assistant superintendent, and patrolmen. The superintendent, assistant superintendent, and each patrolman, before entering upon the performance of the person's duties, shall take and file the oath prescribed by law for state officers ~~and must be bonded in the state bonding fund for the sum of two thousand dollars.~~

SECTION 14. AMENDMENT. Section 44-03-01 of the North Dakota Century Code is amended and reenacted as follows:

44-03-01. Deputies may be appointed by certain officers. The secretary of state, state auditor, state treasurer, superintendent of public instruction, commissioner of insurance, commissioner of agriculture, commissioner of labor, district assessor, and city assessor each may appoint a deputy ~~for whose acts as such he shall be responsible. Each officer required to give a bond may require a bond from any deputy appointed by him. Any such bond must be in the penal sum of not more than half the penal sum of the appointing officer's own bond and may be retained by the officer for his own protection. Such~~ The appointment must be in writing and is revocable in writing at the pleasure of the principal, and ~~such~~ the appointment and revocation must be filed as the ~~bond and~~ oath of the principal ~~are~~ is filed.

SECTION 15. AMENDMENT. Section 49-01-03 of the North Dakota Century Code is amended and reenacted as follows:

49-01-03. Oath and ~~bond~~ of public service commissioners. Each commissioner before entering upon the duties of his the office shall take the oath required of civil officers ~~and shall be bonded in the sum of ten thousand dollars as other state officers are bonded.~~

SECTION 16. AMENDMENT. Section 54-11-07 of the North Dakota Century Code is amended and reenacted as follows:

54-11-07. Suspension of treasurer by governor - Appointment. When a certificate is made to the governor by the state auditor under ~~the provisions of the preceding section 54-11-06,~~ the governor, with the state auditor and the commissioner of banking and financial institutions, ~~thereupon~~ shall examine the books, papers, and all matters connected with the office of the state treasurer so suspended. If it appears to the governor, state auditor, and commissioner of banking and financial institutions on ~~such~~ examination that the state treasurer has embezzled or converted to ~~his~~ the treasurer's own use the public moneys, or has been negligent in keeping ~~his~~ the books, or in taking care of public moneys, the governor on the certificate of the state auditor and the commissioner of banking and financial institutions to that effect may remove the state treasurer and appoint another person to fill the place of the suspended state treasurer. The person so appointed shall ~~execute an official bond and~~ enter upon the office of state treasurer as provided by law. The governor shall report ~~all his acts done in removing~~ the removal of the state treasurer to the next succeeding legislative assembly. The state treasurer so appointed shall hold ~~his~~ office until the suspended state treasurer is reinstated or ~~his~~ a successor is elected and qualified.

SECTION 17. AMENDMENT. Section 54-23.3-04 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-23.3-04. Director - Powers and duties. The director of the department of corrections and rehabilitation has the following powers and duties:

1. To manage and control all institutions and programs within the department and to administer and enforce the laws with which the department is charged.
2. To promote a unified criminal justice system and develop a statewide correctional philosophy in cooperation with the courts, law enforcement, and other entities in the criminal justice system.
3. To develop necessary programs and services for adult and juvenile offenders, within legislative appropriations, to provide for their treatment and rehabilitation and to recognize their special needs.
4. To develop, maintain, and revise as required a comprehensive master plan for the state's correctional system which must indicate the system's needs and resources.
5. To establish policies and procedures necessary to carry out the responsibilities of the department.
6. To organize the department into an adult services division, a juvenile services division, and such other divisions that will enable it to function most effectively and efficiently.
7. To exercise general supervisory and appointing authority over all department employees, subject to any applicable personnel laws and rules.
8. To employ and remove the director of the division of juvenile services, the director of the division of adult services, and other division directors and personnel who may be deemed necessary by the director of the department. Until the director of the department of corrections and rehabilitation has been granted the full-time equivalent positions within the department's budget for the division director positions, or when the positions are vacant, the responsibilities of these positions must be assumed by the director of the department of corrections and rehabilitation or by the director's designee.
9. To delegate authority to subordinates as necessary and appropriate, clearly delineating the delegated authority and limitations.
10. To promote the development of alternatives to conventional incarceration for those offenders who can be dealt with more effectively in less restrictive, community-based facilities and programs.
11. ~~To furnish a bond as approved by the governor and to require bonds from department employees who may be charged with the custody or control of any money or property~~

~~belonging to the state, and who are not otherwise required by law to give a bond. The bonds must conform to the provisions of law applicable to the bonds of state officers and employees. Each such bond must be filed in the office of the secretary of state.~~

42. To contract for correctional services, and to provide such services, with the United States, Canada, other states, and any of their governmental subdivisions and agencies and with another agency or governmental unit in this state, or with any private or public correctional or treatment facility or agency. The director shall reimburse the entity at an amount based upon the services required for the housing and treatment of inmates. The director may also contract to provide services, without cost to the state, for persons held by any of the jurisdictions mentioned in this section. If a treaty is in effect between the United States and a foreign country for the transfer and exchange of offenders, the director of the department of corrections and rehabilitation, upon recommendation of the warden and the approval of the governor, may on behalf of the state under the terms of the treaty transfer or exchange offenders and take any action necessary for the state to participate in the treaty.
43. 12. To sell, lease, or exchange, with the governor's approval, selected portions of land owned by the state under the jurisdiction of the department of corrections and rehabilitation and to sell, trade, lease, or grant mining easements to extract and remove any resources found on, in, or under said department of corrections and rehabilitation lands including clay, coal, oil, gas, gravel, sand, dirt, and sod, under the following conditions and provisions:
- a. Any such sale, exchange, or transaction must allow for the submission of bids pursuant to a notice published in at least one official county newspaper. The sale, exchange, or transaction is exempt from the provisions of sections 54-01-05.2 and 54-01-05.5.
 - b. Any such sale, exchange, or transaction may not be made for less than the appraised value, and the state reserves the right to reject any and all bids.
 - c. The commissioner of university and school lands or the commissioner's designee shall provide technical assistance and advice to the director of the department of corrections and rehabilitation in any transaction.
 - d. All legal documents, papers, and instruments required by any transaction must be reviewed and approved as to form and legality by the attorney general.
 - e. Any of these transactions can be entered into on any terms and conditions permitted by law and approved by the governor.
 - f. All funds and proceeds realized from any of these transactions must be placed in an interest-bearing fund in the state treasury, designated as the North Dakota state penitentiary land fund to be used for the acquisition of additional land and facilities; to maintain, expand, or develop affiliated facilities; to relocate the Missouri River correctional center and the farming and ranching operations of the North Dakota state penitentiary; or for penitentiary renovation.
44. 13. To provide meals at a fair value or without a charge to officers and employees of the department as required by their job assignments.
45. 14. To accept property forfeited or seized in accordance with law.
46. 15. To collect costs and fees from persons on correctional supervision for the supervision services, control devices, and programs as implemented by the department to assist in making community corrections an effective alternative to incarceration. A person on active supervision is presumed able to pay assessed fees unless the director, giving due consideration to the fiscal obligations and resources of the probationer, determines otherwise. A person with the ability to pay assessed fees who refuses to pay must be returned to the court for a judicial determination.

- ~~47.~~ 16. To collect the costs of any presentence investigation and report incurred under subsection 11 of section 12.1-32-02, giving due consideration to the financial obligations and resources of the defendant.

SECTION 18. AMENDMENT. Section 54-44-03 of the North Dakota Century Code is amended and reenacted as follows:

54-44-03. Director of the office of management and budget. There must be a director of the office of management and budget who must be appointed by and serve at the will of the governor. The salary of the director must be set by the governor within the limits of the amount appropriated for salaries by the legislative assembly, and the director and other employees of the office must be reimbursed for expenses incurred in carrying out the duties of their office at the same rate and in the same manner as other state officials. The director is empowered to adopt rules, not inconsistent with law or rules established by the governor, for the administration of the office of management and budget, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of the records, documents, and property pertaining thereto. ~~He~~ The director is empowered to set up such divisions or other internal organization within the office that ~~he shall deem~~ the director determines necessary in order to efficiently carry out the duties, powers, and responsibilities of the office.

~~The director of the office of management and budget shall execute an official bond in the sum of one hundred thousand dollars.~~

SECTION 19. AMENDMENT. Subsection 2 of section 54-52-04 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. The board shall appoint an executive director to serve at its discretion. The executive director shall ~~be bonded by the state bonding fund in the amount required by the board and shall~~ perform such duties as assigned by the board.

SECTION 20. AMENDMENT. Section 55-02-01.1 of the North Dakota Century Code is amended and reenacted as follows:

55-02-01.1. Term of office - Vacancy - Salary and expenses ~~Bond.~~ The superintendent shall serve at the pleasure of the state historical board and until ~~his~~ a successor is appointed and qualified. In case of vacancy by death, removal, resignation, or any other cause, the board shall fill the vacancy by appointment. The salary must be determined by the board within the limits of legislative appropriation and the superintendent is entitled to compensation for ~~his~~ expenses incurred while in the discharge of ~~his~~ official duties, paid in the same manner and amounts as other state officials are paid, from funds available to the board. ~~Before entering upon his duties, the superintendent shall furnish a bond in the penal sum of ten thousand dollars.~~

SECTION 21. AMENDMENT. Section 61-03-02 of the North Dakota Century Code is amended and reenacted as follows:

61-03-02. Oath and bond of state engineer. Before entering upon the duties of office, the state engineer shall take the oath prescribed for civil officers ~~and shall furnish a bond in the penal sum of five thousand dollars, which shall conform to the provisions of law applicable to the bonds of state officers.~~

SECTION 22. AMENDMENT. Section 65-02-02 of the North Dakota Century Code is amended and reenacted as follows:

65-02-02. Oath of office ~~Bond.~~ Before commencing to perform the duties of director of the bureau, the director shall file an oath of office in the usual form ~~and must be bonded by the state bonding fund in the sum of five thousand dollars for the faithful discharge of the director's duties and the proper accounting for all moneys received by the director.~~

SECTION 23. AMENDMENT. Section 65-04-30 of the North Dakota Century Code is amended and reenacted as follows:

65-04-30. State treasurer is custodian of fund - Deposit - Disbursement on vouchers
~~—Additional bond of treasurer.~~ The state treasurer ~~shall be~~ is the custodian of the fund and all payments of awards of the bureau ~~therefrom~~ for disbursements other than travel and administrative expenses ~~shall~~ must be paid by the state treasurer upon warrant-checks authorized and prepared by the bureau. Warrants drawn upon the fund and paid by the state treasurer ~~shall~~ must be returned to the bureau and ~~shall~~ must be kept in the files ~~thereof~~ of the bureau. The bureau shall submit to the office of management and budget once each month a monthly financial statement showing the receipts, disbursements, investments, and status of the fund. The treasurer may deposit any portion of the fund not needed for immediate use in the manner and subject to the requirements prescribed by law for the deposit by ~~such~~ the treasurer of state funds. Any interest earned by any portion of the fund which is deposited by the state treasurer under the provisions of this section ~~shall~~ must be collected by the state treasurer and placed to the credit of the fund. ~~The state treasurer shall give a separate and additional bond in such amount as may be fixed by the governor conditioned for the faithful performance of the state treasurer's duties as custodian of the fund.~~

SECTION 24. REPEAL. Sections 6-01-12, 15-12-06, 20.1-02-12, 27-04-02, 44-01-13, 54-06-11, 54-09-06, 54-10-03, 54-11-14, 54-18-08, and 57-01-01 of the North Dakota Century Code are repealed.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2360.

Senate Vote: Yeas 48 Nays 0 Absent 1

House Vote: Yeas 90 Nays 0 Absent 8

Secretary of the Senate

Received by the Governor at _____ M. on _____, 1999.

Approved at _____ M. on _____, 1999.

Governor

Filed in this office this _____ day of _____, 1999,

at _____ o'clock _____ M.

Secretary of State