

HOUSE BILL NO. 1413

Introduced by

Representatives Clark, Koppelman, Warnke

Senator Grindberg

1 A BILL for an Act to create and enact a new section to chapter 6-01, two new sections to
2 chapter 10-04, a new section to chapter 26.1-01, and a new chapter to title 26.1 of the North
3 Dakota Century Code, relating to the transfer of duties and powers of the commissioner of
4 financial institutions and securities commissioner to the insurance commissioner and to
5 establish a department of finance services under the direction of the insurance commissioner;
6 to amend and reenact sections 6-01-01, 6-01-01.1, 6-01-02, 6-01-03, 6-01-04, 6-01-04.1,
7 6-01-04.2, 6-01-05, 6-01-07, 6-01-07.1, 6-01-09, 6-01-10, 6-01-13, and 6-01-14, subsection 1 of
8 section 6-01-15, sections 6-01-16, 6-01-17, 6-01-17.2, 6-01-18, 6-01-19, 6-01-25, 6-01-30,
9 6-01-31, and 6-02-01, subsection 7 of section 6-03-02, sections 6-03-05, 6-03-11, 6-03-13.1,
10 6-03-47.3, 6-03-47.4, 6-05-02, 6-05-11.1, 6-05-15.5, 6-06-06, 6-06-08, and 6-06-08.4,
11 subdivision a of subsection 2 of section 6-06-35, sections 6-06-36, 6-06-37, and 6-07.1-21,
12 subsection 3 of section 6-08.3-01, section 6-08.3-09, subsection 1 of section 6-13-01, sections
13 7-01-03, 7-01-09, 7-03-04, 7-05-01, 7-05-03, and 10-04-03, subsection 2 of section 10-04-05,
14 subdivision c of subsection 3 of section 10-04-07, sections 10-04-07.1, 10-04-08, 10-04-09, and
15 10-04-10, subdivision c of subsection 2 of section 12.1-06.1-01, sections 26.1-01-01,
16 26.1-01-02, 26.1-01-07, 26.1-01-07.1, 26.1-01-07.2, and 26.1-06-12, subsection 3 of section
17 43-10.1-01, subsection 4 of section 51-19-02, subsection 3 of section 51-23-02, subsection 1 of
18 section 54-06-04, and subsection 1 of section 54-07-01.2, relating to the transfer of duties and
19 powers of the commissioner of financial institutions and securities commissioner to the
20 insurance commissioner; to repeal sections 6-01-08, 6-01-11, and 26.1-01-09 of the North
21 Dakota Century Code, relating to the appointment and salary of the commissioner of financial
22 institutions and the salary and official seal of the insurance commissioner; to provide legislative
23 council authority to correct statutory references; to provide for penalties; and to provide an
24 appropriation and for the transfer of funds from the department of financial services, securities

1 commissioner, and department of the insurance commissioner to the department of finance
2 services.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 6-01-01 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **6-01-01. Management and control - ~~State department of financial institutions~~**
7 **Insurance commissioner**. The ~~state department of financial institutions~~ is under the
8 ~~supervision of the state banking board, state credit union board, and a chief officer designated~~
9 ~~as the commissioner~~ shall oversee the administration of the division of financial institutions, ~~and~~
10 ~~known as the state examiner. Whenever the term state examiner is used in this code, it means~~
11 ~~the commissioner of financial institutions.~~ The ~~state department of financial institutions~~ has
12 ~~charge of the execution of~~ commissioner shall execute all laws relating to state banks, trust
13 companies, credit unions, building and loan associations, mutual investment corporations,
14 mutual savings corporations, banking institutions, and other financial corporations, exclusive of
15 the Bank of North Dakota.

16 **SECTION 2. AMENDMENT.** Section 6-01-01.1 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **6-01-01.1. Regulatory fund established - Uses - Appropriation.**

- 19 1. There is hereby created a special fund designated as the financial institutions
20 regulatory fund. The amounts received under the following chapters, and any
21 other moneys received by the ~~department of financial institutions~~ division, must be
22 deposited into this fund: chapters 6-01, 6-03, 6-05, 6-06, 6-10, 7-05, 13-03.1,
23 13-04.1, 13-05, and 51-17.
- 24 2. All moneys deposited in the financial institutions regulatory fund are reserved for
25 use by the ~~department of financial institutions~~ commissioner and the division to
26 defray the expenses of the department in the discharge of its financial institution
27 administrative and regulatory powers and duties as prescribed by law, subject to
28 the applicable laws relating to the appropriation of state funds and to the deposit
29 and expenditure of state moneys. The ~~department of financial institutions~~

1 commissioner is responsible for the proper expenditures of these moneys as
2 provided by law.

3 3. Any cash balance in the financial institutions regulatory fund after all current
4 biennium expenditures are met must be carried forward in the financial institutions
5 regulatory fund for the next succeeding biennium. The balance in this fund at the
6 end of the current biennium may not exceed twenty percent of the department's
7 biennial budget designated for the division.

8 4. All moneys derived from the investment of any portion of the financial institutions
9 regulatory fund must be credited to the fund.

10 **SECTION 3. AMENDMENT.** Section 6-01-02 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **6-01-02. Definitions.** As used in this title, unless the context or subject matter
13 otherwise requires:

14 1. "Association", "banking association", or "state banking association" means any
15 corporation organized under the laws of this state covering state banking
16 associations, and all ~~corporations, limited liability companies, partnerships, firms,~~
17 ~~or associations whose~~ organizations, the business of which in whole or in part
18 consists of the taking of money on deposit, except national banks, trust companies,
19 and the Bank of North Dakota.

20 2. "Bank" means any national bank, national banking association, corporation, state
21 bank, state banking association, or savings bank, whether organized under the
22 laws of this state or of the United States, engaged in the business of banking.

23 3. "Bank holding company" means bank holding company as defined in 12 U.S.C.
24 1841(a)(1).

25 4. "Banking" means the business of receiving deposits, making loans, discounting
26 commercial paper, issuing drafts, traveler's checks, and similar instruments,
27 handling and making collections, cashing checks and drafts, and buying and selling
28 exchange.

29 ~~5. "Banking department" means the state department of financial institutions.~~

30 ~~6.~~ "Banking institution" means any bank, trust company, or bank and trust company
31 organized under the laws of this state.

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- 1 ~~7.~~ 6. "Branch" means a place of business where deposits are received, checks paid, or
2 money lent as a result of a bank that was merged into another bank pursuant to an
3 interstate merger.
- 4 ~~8.~~ 7. "Commissioner" means the insurance commissioner ~~of financial institutions.~~
- 5 ~~9.~~ 8. "Corporate central credit union" means a credit union operated for the primary
6 purpose of serving corporate accounts. A credit union is deemed to be a corporate
7 central credit union when its total dollar amount of outstanding corporate loans plus
8 corporate share and deposit holdings is equal to or greater than seventy-five
9 percent of its outstanding loans plus share and deposit holdings.
- 10 ~~40.~~ 9. "Credit union" means a cooperative, nonprofit association organized for the
11 purposes of encouraging thrift among its members, creating a source of credit at a
12 fair and reasonable rate of interest, and providing an opportunity for its members to
13 improve their economic and social condition.
- 14 10. "Department" means the department of finance services.
- 15 11. "Deputy" means a deputy examiner appointed by the director under this chapter.
- 16 12. "Director" means the director of the division.
- 17 13. "Division" means the division of financial institutions.
- 18 ~~44.~~ 14. "Financial institution" means any bank, industrial loan company, or savings and
19 loan association organized under the laws of this state or of the United States.
- 20 ~~42.~~ 15. "Merger" or "merge" means the merging or consolidation of two or more banks
21 including the purchase of all or substantially all of the assets and assumption of
22 liabilities of a bank, facility, or branch.
- 23 ~~43.~~ 16. "Mutual investment corporation" or "mutual savings corporation" means a
24 corporation organized to engage in the investment or savings business, but having
25 no capital stock or a nominal capital stock.
- 26 ~~44.~~ 17. "National bank" or "national banking association" means an institution chartered by
27 the comptroller of the currency under the National Bank Act [12 U.S.C. 24].
- 28 ~~45.~~ 18. "Trust company" means any corporation formed for the purpose of transacting
29 business as an annuity, safe deposit, surety, or trust company.

30 **SECTION 4.** A new section to chapter 6-01 of the North Dakota Century Code is
31 created and enacted as follows:

1 **Insurance commissioner to be substituted for commissioner of financial**
2 **institutions - Division of financial institutions to be substituted for department of**
3 **financial institutions.** Wherever the terms "commissioner of financial services" or any
4 derivative of the term when used in the context to refer to that position appear in the code, the
5 term "insurance commissioner" must be substituted therefor. Wherever the term "department of
6 financial institutions" or any derivative of the term is used in the code, the term "division of
7 financial institutions" must be substituted therefor. The insurance commissioner shall assume
8 the duties, functions, and powers of the commissioner of financial institutions.

9 **SECTION 5. AMENDMENT.** Section 6-01-03 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **6-01-03. State banking board and state credit union board.**

12 1. The state banking board consists of the commissioner and six members ~~to be~~
13 appointed by the ~~governor~~ commissioner, four of whom must each have ~~had~~ at
14 least five years' experience in an executive capacity in the management of a state
15 bank in ~~the state of~~ North Dakota, one of whom must have at least five years'
16 experience in an executive capacity in the management of any state or national
17 bank in North Dakota, and one of whom must be a lay member from the public at
18 large. ~~The term of office of the members of the board, other than the~~
19 ~~commissioner, is for a period of five years.~~ In case of a vacancy in the board, by
20 death, resignation, or removal of an appointed member, the vacancy must be filled
21 by appointment by the ~~governor for the unexpired term~~ commissioner. The
22 commissioner is the chairperson of the board and the attorney general is,
23 ex officio, the attorney for the board. ~~The assistant commissioner~~ director shall
24 serve as ~~its~~ the board's secretary. The board shall hold regular meetings in
25 January, March, May, July, September, and November of each year and special
26 meetings at the call of the commissioner in such place as the commissioner may
27 designate within the state ~~of North Dakota~~. The members of the board, other than
28 the commissioner, shall receive fifty dollars per day while attending meetings, or in
29 the performance of such special duties as the board may direct. Expense
30 reimbursements for meals, lodging, and transportation ~~must be~~ are at the same
31 rate as those allowed state employees.

- 1 2. The state credit union board consists of the commissioner and four members to be
2 appointed by the ~~governor~~ commissioner. Two of the members of the state credit
3 union board must have at least three years' experience as an officer, a director, or
4 a committee member of a North Dakota state-chartered credit union, one member
5 of the board must have ~~had~~ at least three years of experience as an officer, a
6 director, or a committee member of a federally chartered credit union, and one
7 member of the board must be a lay member from the public at large. ~~The term of~~
8 ~~office of appointed board members is five years.~~ In case of a vacancy in the board,
9 by death, resignation, or removal of an appointed member, the ~~governor~~
10 commissioner shall appoint an individual to fill the vacancy ~~for the unexpired term~~.
11 The commissioner chairs the board and the attorney general is, ex officio, the
12 attorney for the board. The ~~assistant commissioner~~ director shall serve as ~~its~~ the
13 board's secretary. The members of the state credit union board are entitled to
14 receive the same remuneration as is provided for the members of the state banking
15 board. The state credit union board shall hold meetings in March, June,
16 September, and December of each year and special meetings at the call of the
17 commissioner in such places as the commissioner may designate within the state.
- 18 3. The word "board" when used in this title includes the state banking board and the
19 state credit union board. Board members serve at the pleasure of the
20 commissioner.

21 **SECTION 6. AMENDMENT.** Section 6-01-04 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **6-01-04. Powers and duties of the state banking board and state credit union**
24 **board.** ~~The board may adopt rules for the government of financial corporations mentioned in~~
25 ~~section 6-01-01 to the extent the rules do not conflict with any law of this state or of the United~~
26 ~~States.~~ The board shall make and enforce such orders as are necessary or proper to protect
27 the public and the depositors or creditors of those financial corporations and institutions.

28 The same powers are given to the state credit union board with reference to credit
29 unions as are granted to the state banking board with reference to financial corporations named
30 in this chapter.

1 **SECTION 7. AMENDMENT.** Section 6-01-04.1 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **6-01-04.1. Removal of officers, directors, and employees of financial corporations**
4 **or institutions.**

- 5 1. The ~~department of financial institutions~~ commissioner or the board may issue and
6 serve upon any officer, director, or employee of a financial corporation or institution
7 subject to ~~its~~ the commissioner's jurisdiction and upon the financial corporation or
8 institution involved, a complaint stating the basis for the board's or the
9 ~~department's~~ commissioner's belief that the officer, director, or employee is
10 engaging, or has engaged, in any of the following conduct:
- 11 a. Violating any law, regulation, ~~board~~ order, rule, or written agreement with the
12 board or the commissioner;
 - 13 b. Engaging or participating in any unsafe or unsound practice; or
 - 14 c. Performing any act of commission or omission or practice which is a breach of
15 trust or a breach of fiduciary duty.
- 16 2. The complaint must contain a notice of opportunity for hearing pursuant to chapter
17 28-32. The date for the hearing must be set not less than thirty days after the date
18 the complaint is served upon the officer, director, or employee of the financial
19 corporation or institution. The officer, director, or employee may waive the
20 thirty-day notice requirement.
- 21 3. If ~~no~~ a hearing is not requested within twenty days of the date the complaint is
22 served upon the officer, director, or employee, or if a hearing is held and the board
23 finds that the record so warrants, and if the board finds that the financial
24 corporation or institution has suffered or will probably suffer significant loss or other
25 significant damage or that the interest of its depositors, shareholders, members, or
26 creditors could be seriously prejudiced, ~~it~~ the board may enter an order suspending
27 or removing the officer, director, or employee.
- 28 4. A contested or default suspension or removal order is effective immediately upon
29 service on the officer, director, or employee and upon the financial corporation or
30 institution. A consent order is effective as agreed.

- 1 5. Any officer or director suspended or removed from office ~~pursuant to~~ under this
2 section is not eligible, while under suspension, for reelection to any official position
3 within a financial corporation or institution in North Dakota for a period not
4 exceeding three years from the effective date of the suspension or removal.
- 5 6. ~~When~~ If any officer, director, employee, or other person participating in the conduct
6 of the affairs of a financial corporation or institution is charged with a felony in state
7 or federal court, involving dishonesty or breach of trust, the commissioner may
8 immediately suspend the person from office or prohibit the person from any further
9 participation in the financial corporation's or institution's affairs. The order is
10 effective immediately upon service of the order on the financial corporation or
11 institution and the person charged, and remains in effect until the criminal charge is
12 finally disposed of or until modified by the board. If a judgment of conviction, a
13 federal pretrial diversion, or similar state order or judgment is entered, the board
14 may order that the suspension or prohibition be made permanent. A finding of not
15 guilty or other disposition of the charge does not preclude the commissioner or the
16 board from pursuing administrative or civil remedies.

17 **SECTION 8. AMENDMENT.** Section 6-01-04.2 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **6-01-04.2. Cease and desist orders.**

- 20 1. The ~~department of financial institutions~~ commissioner or the board may issue and
21 serve upon a financial corporation or institution subject to ~~its~~ the commissioner's
22 jurisdiction a complaint stating the factual basis for the ~~department's~~
23 commissioner's or board's belief that the financial corporation or institution is
24 engaging in any of the following conduct:
- 25 a. An unsafe or unsound practice.
- 26 b. A violation in the past or on a continuing basis of any law, regulation, ~~board~~
27 order, rule, or written agreement entered into with the board or the
28 commissioner.
- 29 2. The complaint must contain a notice of opportunity for hearing ~~pursuant to~~ under
30 chapter 28-32. The date for the hearing must be set not less than thirty days after

- 1 the date the complaint is served upon the financial corporation or institution. The
2 financial corporation or institution may waive the thirty-day notice requirement.
- 3 3. If the financial corporation or institution fails to respond to the complaint within
4 twenty days of its service, or if a hearing is held and the board concludes that the
5 record so warrants, the board may enter an order directing the financial corporation
6 or institution to cease and desist from engaging in the conduct ~~which~~ that was the
7 subject of the complaint and hearing and to take corrective action.
- 8 4. The commissioner or the board may enter an emergency, temporary cease and
9 desist order if the commissioner or the board finds the conduct described in the
10 complaint is likely to cause insolvency, substantial dissipation of assets, earnings,
11 or capital of the financial corporation or institution, or substantial prejudice to the
12 depositors, shareholders, members, or creditors of the financial corporation or
13 institution. An emergency, temporary cease and desist order is effective
14 immediately upon service on the financial corporation or institution and remains in
15 effect for no longer than sixty days or until the conclusion of permanent cease and
16 desist proceedings ~~pursuant to~~ under this section, whichever is sooner. An
17 emergency, temporary cease and desist order may be issued without an
18 opportunity for hearing. The financial corporation upon which such an order is
19 served may apply to the district court of the county in which the financial
20 corporation or institution is located for an order enjoining the operation of the
21 emergency, temporary order. The application for injunction and procedure upon
22 application must comply with the requirements of section 6-07-14.

23 **SECTION 9. AMENDMENT.** Section 6-01-05 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **6-01-05. Taking of testimony and enforcement of orders.** The board, the
26 commissioner, the director, and the deputy examiners each have the power to subpoena
27 witnesses, administer oaths, and generally to do and perform any and all acts and things
28 necessary to the complete performance of the powers and duties imposed upon them in this
29 title, and to enforce the provisions of law relating to financial institutions. For the purpose of
30 enabling them to perform all the duties imposed upon them, the provisions of section 27-10-23
31 are applicable to their proceedings. Any and all orders made by the board are operative

1 immediately and remain in full force until modified, amended, or annulled by the board, or by a
2 court of competent jurisdiction in an action commenced by the party against whom such order
3 has been issued.

4 **SECTION 10. AMENDMENT.** Section 6-01-07 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **6-01-07. Records of ~~state banking board, state credit union board, and~~**
7 **commissioner.** The state banking board ~~and~~ state credit union board, and commissioner
8 shall keep a full and complete record of all ~~their~~ proceedings and of all orders made by them in
9 administering the division. ~~The~~ These records and the proceedings of the boards and
10 commissioner are open in accordance with sections 44-04-18 and 44-04-19. All reports, except
11 supervisory reports of examination, made by or filed with the board or the commissioner relating
12 to any financial institution, ~~must be~~ are open to inspection and examination by stockholders,
13 shareholders, depositors, creditors, and sureties on any bonds of any such institution or on the
14 bonds of any officer or employee thereof, subject, however, to the following restrictions:

- 15 1. A stockholder, shareholder, depositor, creditor, or surety of any institution desiring
16 to inspect the information specified above of any institution shall make a written
17 request for the inspection.
- 18 2. A written request must:
 - 19 a. Specify the information to which access is requested; and
 - 20 b. Give the reasons for the request.
- 21 3. Upon written request, the commissioner, or any person designated in writing by the
22 commissioner, may disclose information specified in subsection 1 of section
23 6-01-07.1 only upon determining and to the extent that good cause exists for the
24 disclosure.
- 25 4. Either ~~prior to~~ before or at the time of any disclosure, the commissioner or
26 designee shall impose such terms and conditions as the commissioner deems
27 necessary to protect the confidential nature of the information, the financial integrity
28 of the financial institution to which the information relates, and the legitimate
29 privacy interests of any individual named in the information.

30 **SECTION 11. AMENDMENT.** Section 6-01-07.1 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **6-01-07.1. Records - Confidential.**

2 1. All facts and information obtained by the commissioner, division, or ~~the~~ department
3 in the following ways are confidential, except as provided in subsections 2
4 through 7:

5 a. In the course of examining financial institutions under the supervision of the
6 commissioner, or in the course of receiving audit reports, reports of examining
7 committee and reports of annual meetings of stockholders and directors of
8 such institutions. The reports of examination may be made available to the
9 financial institution's board of directors, or the board's specifically authorized
10 agents or representatives, but the reports remain the property of the
11 ~~department~~ commissioner.

12 b. From the federal reserve system, federal deposit insurance corporation,
13 federal home loan bank board, national credit union administration, or any
14 state bank or credit union supervisors of other states.

15 c. In the course of investigating an institution under the supervision of the
16 commissioner, until such investigation is complete.

17 d. In the course of a special investigation being carried out at the request of the
18 governor or any court.

19 e. In the form or nature of an application for a charter, license, or permission
20 which meets any of the following criteria:

21 (1) Trade secrets and commercial or financial information.

22 (2) Personnel and medical files and similar files the disclosure of which
23 would constitute a clearly unwarranted invasion of personal privacy.

24 (3) Information contained in the application form which is in the nature of
25 examination report information.

26 Determination of what required application information falls within each
27 category must be made by the body before which the application is brought.

28 2. When the commissioner is required or permitted by law to report upon or take
29 special action regarding the affairs of any financial institution under the
30 commissioner's supervision, the commissioner shall divulge only such information

1 specified in subsection 1 as is necessary and sufficient for the action taken or to be
2 taken.

3 3. The commissioner may furnish information to the attorney general, other state
4 agencies, any prosecuting officials requiring the information for use in pursuit of
5 official duties, and legislative investigations under chapter 54-03.2. Information
6 furnished by the commissioner to any third party which is confidential in the
7 commissioner's possession remains confidential in the possession of the third
8 party. Information received by the commissioner from any third party which is
9 confidential in the third party's possession remains confidential in the
10 commissioner's possession.

11 4. The commissioner may furnish information and enter into sharing agreements as to
12 matters of mutual interest to an official or examiner of the federal reserve system,
13 federal deposit insurance corporation, federal home loan bank board, national
14 credit union administration, office of thrift supervision, comptroller of the currency,
15 ~~insurance commissioner, office of the securities commissioner,~~ or any state bank
16 or credit union supervisors of other states.

17 5. The commissioner ~~shall~~ may not be required to disclose the name of any debtor of
18 any financial institution reporting to or under the supervision of the commissioner or
19 anything relative to the private accounts, ownership, or transactions of any such
20 institution, or any fact obtained in the course of any examination thereof, except as
21 herein provided.

22 6. This section does not limit the right of access of stockholders, shareholders,
23 depositors, creditors, and sureties on bonds to specified department records as,
24 and to the extent, provided by section 6-01-07.

25 7. The standards for confidentiality and disclosure by the commissioner set forth in
26 this section, except the standard of the exercise of discretion, which shall only be
27 exercised by the commissioner, apply equally to the state banking board, the state
28 credit union board, and all department employees.

29 **SECTION 12. AMENDMENT.** Section 6-01-09 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **6-01-09. Supervision and examination by commissioner ~~of financial institutions.~~**

2 The commissioner shall exercise a constant supervision over the business affairs of all financial
3 corporations and institutions, out-of-state branches of financial corporations and institutions,
4 and branches of out-of-state state-chartered banks, savings and loan associations, or savings
5 banks within the jurisdiction of the ~~board~~ commissioner. Either the commissioner or one or
6 more examiners shall visit each of the state banking associations and other corporations,
7 associations, and branches under the commissioner's jurisdiction at least once each thirty
8 months to examine their affairs and ascertain their financial condition. The commissioner shall
9 inspect and verify the assets and liabilities of the institution and branches to ascertain with
10 reasonable certainty that the value of the assets and the amounts of the liabilities are correctly
11 carried on its books. The commissioner shall examine the validity of mortgages held by savings
12 institutions, and shall see that all of the mortgages are properly recorded. The commissioner
13 shall investigate the method of operation and conduct of the corporations and institutions and
14 their systems of accounting to ascertain whether the methods conform to the law and sound
15 banking usage and principles. The commissioner shall inquire into and report any infringement
16 of the laws governing those corporations and institutions, and for that purpose the
17 commissioner may examine the officers, agents, and employees of the corporations and
18 institutions and all persons doing business therewith. The commissioner may examine, or
19 cause to be examined, or review the books and records of any subsidiary corporation of a bank
20 under the commissioner's supervision and may require the bank to provide information on the
21 holding company that owns the bank. The commissioner shall report the condition of the
22 corporations and institutions, together with the commissioner's recommendations or
23 suggestions in connection therewith, to the state banking board, and the board may take such
24 action as the exigencies may demand.

25 **SECTION 13. AMENDMENT.** Section 6-01-10 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **6-01-10. Commissioner, director, and chief deputy to keep records and make**
28 **reports - ~~Biennial report~~ Reports.**

29 1. The ~~assistant commissioner~~ chief deputy shall act as secretary and keep all proper
30 records and files pertaining to the duties and work of the ~~office of the assistant~~
31 commissioner and the proceedings of the board and division. The commissioner

1 shall report to the board annually, touching on all the commissioner's official acts
2 and those of the director and deputy examiners, giving abstracts of statistics and of
3 the conditions of the various institutions to which the commissioner's duties relate,
4 and making such recommendations and suggestions as the commissioner and
5 director may determine proper.

6 2. The state banking board shall submit a biennial report to the governor and the
7 secretary of state in accordance with section 54-06-04. In addition to any
8 requirements established ~~pursuant to~~ under section 54-06-04, the banking board's
9 report must include a summary or abstract of the reports of the commissioner.

10 3. The commissioner shall report to the state credit union board annually in the same
11 manner as this section provides for the commissioner's report to the state banking
12 board. The state credit union board shall submit a biennial report to the governor
13 and the secretary of state in accordance with section 54-06-04, and in addition, the
14 credit union board's report must include a summary or abstract of the reports of the
15 commissioner.

16 4. The biennial reports of the state banking board and the state credit union board
17 shall must be published in the form of a combined biennial report of the
18 ~~department of financial institutions. The biennial report of the department shall be~~
19 ~~submitted to the governor and the secretary of state in accordance with section~~
20 ~~54-06-04. The biennial report of the department must include all other biennial~~
21 ~~reports which the commissioner or the boards are required by law to submit to the~~
22 ~~governor and the office of management and budget.~~

23 **SECTION 14. AMENDMENT.** Section 6-01-13 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **6-01-13. Commissioner— Appointment of deputies.** The ~~commissioner~~ director may
26 appoint, remove, and assign appropriate titles to such deputy examiners and such other
27 employees as in the ~~commissioner's~~ director's judgment may be necessary for the proper
28 discharge of the business of the ~~department~~ division of financial institutions. The ~~commissioner~~
29 director may select and designate one of said deputy examiners to be chief deputy examiner
30 and to act during the absence or disability of the ~~commissioner~~ director, and in such cases the
31 deputy examiner so designated has charge of the office and shall administer its affairs. The

1 chief deputy examiner shall perform such duties as may be prescribed by the ~~commissioner~~
2 director.

3 **SECTION 15. AMENDMENT.** Section 6-01-14 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **6-01-14. Deputies controlled by ~~commissioner~~ director - Reports.** Each deputy
6 examiner provided for in this title ~~is under the direct orders and instructions of~~ reports to the
7 commissioner through the director, and shall report to ~~him~~ the director during or immediately
8 after the completion of each examination of each financial corporation or institution examined
9 by ~~him~~ the deputy, together with such recommendations and suggestions as ~~he~~ the deputy may
10 deem advisable. Such report must be in such form as may be prescribed by the ~~commissioner~~
11 director or the state banking board.

12 **SECTION 16. AMENDMENT.** Subsection 1 of section 6-01-15 of the North Dakota
13 Century Code is amended and reenacted as follows:

14 1. ~~No~~ An officer or employee of ~~this department~~ the division may not have any
15 interest, directly or indirectly, in any corporation or institution within the jurisdiction
16 of the ~~department of financial institutions~~ division, nor in any corporation or
17 institution engaged wholly or in part in the writing or issuing of bonds of or for any
18 such corporation or institution or any officer or employee thereof. Provided,
19 however, this prohibition does not apply to membership in a state-chartered credit
20 union or savings and loan association.

21 **SECTION 17. AMENDMENT.** Section 6-01-16 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **6-01-16. Salaries of ~~commissioner's~~ deputies.** The salary of the chief deputy
24 examiner and the salary of each other deputy must be fixed by the commissioner within the
25 limits of the legislative appropriation for such salaries. In addition to the amounts herein
26 specified, each deputy ~~must be~~ is allowed ~~his~~ actual and necessary traveling expenses when
27 engaged in the discharge of ~~his~~ official duties. The salaries of all clerks, stenographers, and
28 other assistants must be fixed by the commissioner within the limits of the legislative
29 appropriation therefor.

30 **SECTION 18. AMENDMENT.** Section 6-01-17 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **6-01-17. Yearly assessment of banks and interstate branches.** Every state banking
2 association and banking institution under the jurisdiction and control of the commissioner ~~and~~
3 ~~the commissioner's deputy examiners~~ by this title, including the Bank of North Dakota and
4 every branch of an out-of-state state bank, shall pay a yearly assessment. This assessment is
5 to be determined by the state banking board as necessary to fund that portion of the
6 department's budget relating to the regulation of state-chartered banks and branches of
7 out-of-state state banks including the authority to enter into cooperative fee sharing agreements
8 and assessment of associated travel costs with other state bank supervisors. Assessment fees
9 may not be computed on the combined assets of the bank and ~~its~~ the bank's trust department
10 for those banks and branches exercising trust powers. Fees for the examination of the trust
11 department must be computed in accordance with section 6-05-28. The assessment must be
12 paid to the state treasurer within thirty days of each June thirtieth. Institutions and branches
13 that have not been examined by the commissioner or the state banking board for three years
14 ~~prior to~~ before any assessment date ~~shall~~ are not ~~be~~ required to pay the assessment. The
15 state treasurer shall report such payments of fees to the commissioner, and if any such
16 corporation or institution or branch is delinquent more than twenty days in making such
17 payment, the board may make an order suspending the functions of such delinquent
18 corporation, institution, or branch until payment of the amount due. The commissioner may
19 assess a penalty of five dollars for each day that the assessment fee is delinquent. All fees and
20 penalties under this section must be paid to the state treasurer and deposited in the financial
21 institutions regulatory fund.

22 **SECTION 19. AMENDMENT.** Section 6-01-17.2 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **6-01-17.2. Additional assessment of banks and interstate branches.** ~~Where~~ If the
25 commissioner determines that more than one visit, inspection, or examination is necessary to
26 promote the safety and soundness of a state banking association or a branch of an out-of-state
27 state bank during a twelve-month period, the state banking association or branch shall pay to
28 the state treasurer a fee for the time used by the commissioner or other person designated by
29 the commissioner in supervising, filing, and corresponding in connection with each additional
30 visit, inspection, or examination and report of examination and for time used by each deputy
31 examiner, or other person in making and otherwise preparing and typing the reports of

1 examination herein provided for. Fees for the visit, inspection, or examination must be charged
2 by the ~~department of financial institutions~~ division at an hourly rate to be set by the
3 commissioner, sufficient to cover all reasonable expenses of the ~~department~~ division
4 associated with the visit, inspection, or examination provided for by this section. A state
5 banking association or branch of an out-of-state state bank shall pay such assessment or fee
6 within ten days of receiving a billing from the commissioner. Fees must be deposited in the
7 financial institutions regulatory fund. The state treasurer shall report the payments of fees to
8 the commissioner, and if any corporation or institution or branch is delinquent more than twenty
9 days in making the payment, the board may make an order suspending the functions of the
10 delinquent corporation or institution or branch until payment of the amount due. The
11 commissioner may assess a penalty of five dollars a day additional for the delay. The state
12 banking board may waive or postpone the collection of this special assessment if the
13 assessment would place an undue burden on the state banking association or branch.

14 **SECTION 20. AMENDMENT.** Section 6-01-18 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **6-01-18. Reports and examinations of institutions by federal deposit insurance**
17 **corporation, other state supervisors, or federal reserve system.** The commissioner may
18 accept, in lieu of any examination authorized or required by this title to be conducted by the
19 ~~department~~ division of any banking institution, the examination that may have been made of the
20 institution within a reasonable period by the federal deposit insurance corporation, any other
21 state supervisor, or the federal reserve system, if a copy of the examination is furnished to the
22 commissioner. The commissioner also may accept any report relative to the condition of any
23 banking institution which may have been obtained by that corporation or system within a
24 reasonable period in lieu of any similar report that the commissioner is authorized by this title to
25 require of the institution, if a copy of the report is furnished to the commissioner. The
26 commissioner may furnish to the corporation or system, or to any official or examiner, a copy or
27 copies of any or all examinations made of any banking institutions and of any or all reports
28 made by them, and may give access to and disclose to the corporation or system, or any official
29 or examiner, any and all information possessed by the ~~office of the commissioner~~ division with
30 reference to the conditions or affairs of any institution insured with the federal deposit insurance
31 corporation. This section does not limit the duty of any banking institution in this state, the

1 deposits of which are to any extent insured under the provisions of the federal act creating the
2 federal deposit insurance corporation, or of any amendment of or substitution for that act, to
3 comply with the provisions of that act, its amendments or substitutions, or the requirements of
4 the corporation relative to examinations and reports, nor limit the powers of the commissioner
5 with reference to examinations and reports under this title.

6 **SECTION 21. AMENDMENT.** Section 6-01-19 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **6-01-19. Commissioner to keep bank record.** The commissioner shall keep a bank
9 record ~~wherein must be recorded~~ in which the commissioner shall record the name and location
10 of each bank in the state, ~~its~~ the bank's capitalization and changes ~~thereof~~ of capitalization, ~~its~~
11 the bank's officers, ~~its~~ the bank's shareholders and shareholders' addresses ~~thereof~~, and ~~its~~ the
12 bank's reserve agents, and changes of the same, and ~~he~~ the commissioner shall keep in
13 docket form such other proceedings as may have been ~~had~~ relative to such bank by the state
14 banking board and by the commissioner.

15 **SECTION 22. AMENDMENT.** Section 6-01-25 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **6-01-25. Supervision of books and accounts of public institutions and private**
18 **institutions with which state has dealings.** The commissioner shall assume and exercise
19 constant supervision over the books and financial accounts of the several public offices and
20 institutions which ~~he~~ the commissioner is authorized to examine under the division. ~~He~~ The
21 commissioner shall prescribe and enforce a correct and uniform method of keeping financial
22 accounts in such offices and institutions, shall recommend a form for warrants or for
23 order-checks which must conform so far as consistent with statutory and charter requirements
24 to approved banking practice, in order to facilitate handling of such instruments by banks and
25 other depositories, and shall instruct the proper officer of each of said institutions in the due
26 performance of ~~his~~ the officer's duties concerning the same. ~~He has authority to~~ The
27 commissioner may examine the books and accounts of all private institutions with which the
28 state has any dealings so far only as the same relate to such dealings. If any public officer
29 having control of any such office or ~~institutions~~ institution fails or refuses to comply with the
30 directions of the commissioner, the commissioner shall report the facts to the governor and to

1 the manager of the state bonding fund, and such refusal constitutes grounds for removal from
2 office and cancellation of the bond of such officer.

3 **SECTION 23. AMENDMENT.** Section 6-01-30 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **6-01-30. Reports of commissioner - Contents.** The commissioner shall report to the
6 governor the result of ~~his~~ the commissioner's examination of any public office or state institution
7 ~~and also shall make a report on any particular matter connected therewith at any time when~~
8 ~~required to do so by the governor.~~

9 **SECTION 24. AMENDMENT.** Section 6-01-31 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **6-01-31. Certain accounts open for inspection.** Any person acquiring custody of, or
12 receiving any funds for or on behalf of the state of North Dakota, or any of ~~its~~ the state's political
13 subdivisions, who places such funds in an account with any financial institution, banking
14 association, or banking institution, or who commingles such funds with any private account, has
15 waived all privilege of privacy or confidentiality on such accounts for the purposes of permitting
16 an audit, examination, or inspection by the state auditor, ~~state banking~~ the commissioner, or the
17 attorney general, as ~~hereinafter~~ provided under this section.

18 Upon application and a reasonable showing by either the state auditor, the
19 commissioner ~~of banking~~, or the attorney general that any account, private or otherwise, in any
20 banking association, financial institution, or banking institution, contains funds belonging to the
21 state of North Dakota or a political subdivision, whether or not commingled with private funds,
22 the district court may issue its order making such accounts available for examination, audit, or
23 inspection by the state auditor, the commissioner ~~of banking~~, or the attorney general. ~~No A~~
24 financial institution, banking association, or banking institution is not subject to damages for
25 giving information on, or making such account available for inspection, audit, or examination
26 ~~pursuant to~~ under this section.

27 In addition to any other presumptions, any check, draft, or other comparable instrument
28 is presumed to represent public funds of the state, or a political subdivision, as the case may
29 be, if ~~it~~ the instrument is payable to a person identified as an official of the state or a political
30 subdivision.

1 **SECTION 25. AMENDMENT.** Section 6-02-01 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **6-02-01. Compliance with chapters required - Penalty for noncompliance.**

- 4 1. ~~No~~ A person, firm, company, copartnership, or corporation, either domestic or
5 foreign, not organized under this chapter or authorized to take on banking powers
6 under this section, except national banking corporations and the Bank of North
7 Dakota, may not make use of or display in connection with its business, in signs,
8 letterheads, advertising, or in any other way, such words as "bank", "banker", or
9 "banking", or any other word or words of like import, nor may any person or
10 concern do or perform anything in the nature of the business of a bank until and
11 unless such business is regularly organized or authorized under this chapter.
- 12 2. If any firm or corporation organized ~~prior to~~ before July 1, 1931, ~~has been~~ was
13 granted a charter permitting it to use any ~~word,~~ words, or title contrary to the intent
14 of this section, and by reason of its rights under such charter this section may not
15 be enforced against it during the life of such charter, ~~no~~ a renewal charter may not
16 be granted to such person, ~~firm, or corporation~~ permitting the continuance of the
17 use of such ~~word,~~ words, or title contrary to or in violation of this section. Any
18 person, ~~firm, or corporation~~ ~~which,~~ that by reason of an existing charter right under
19 any law or statute in effect ~~prior to~~ before July 1, 1931, may be held by the courts
20 not to be affected by this section and which therefore refuses to comply with this
21 section, during the period of noncompliance, shall display prominently and
22 continuously ~~display~~ in plain, legible, and clearly discernible lettering on all of its
23 signs, stationery, circulars, and advertising, and in all of its printed or written
24 matter, the following words and language: "NOT UNDER THE SUPERVISION OF
25 THE STATE BANKING BOARD OR ~~THE COMMISSIONER~~ DIVISION OF
26 FINANCIAL INSTITUTIONS". Such language must be displayed as prominently
27 thereon as is other matter therein.
- 28 3. Any person, ~~firm, company, copartnership, or corporation, domestic or foreign,~~
29 violating any provision of this section shall forfeit to the state one hundred dollars
30 for every day or part ~~thereof~~ of a day during which such violation continues. In an
31 action brought by the commissioner or any aggrieved person, the court may issue

1 an injunction restraining any such person, ~~firm, company, copartnership, or~~
2 ~~corporation~~ from further using such words, terms, or phrases in violation of this
3 section or from further transacting business in such way or manner as to lead the
4 public to believe that ~~it~~ the person's business is in whole or in part of the nature of
5 a bank, or that it is under the supervision of the state banking board or ~~the~~
6 ~~commissioner~~ division of financial institutions.

7 **SECTION 26. AMENDMENT.** Subsection 7 of section 6-03-02 of the North Dakota
8 Century Code is amended and reenacted as follows:

9 7. To exercise, as determined by the board or commissioner by order or rule, all the
10 incidental powers as are necessary to carry on the business of banking, including:
11 discounting and negotiating promissory notes, bills of exchange, drafts, and other
12 evidences of debt; receiving deposits; buying and selling exchange, coin, and
13 bullion; ~~and~~ loaning money upon real or personal security, or both; soliciting and
14 receiving deposit in the nature of custodial accounts funded only in savings
15 accounts or certificates of deposit for the purpose of retirement fund contracts or
16 pension programs, and such custodial accounts are exempt from chapter 6-05;
17 and providing services to its customers involving electronic transfer of funds to the
18 same extent that other financial institutions chartered and regulated by an agency
19 of the federal government are permitted to provide those services within this state.
20 A bank that provides electronic funds transfer equipment and service to ~~its~~ the
21 bank's customers, at premises separate from its main banking house or duly
22 authorized facility approved by the state banking board, ~~must~~ shall make the
23 equipment and service available for use by customers of any other bank upon the
24 request of the other bank to share its use and the agreement of the other bank to
25 share pro rata all costs incurred in connection with its installation and operation,
26 and the electronic operations are not deemed to be the establishment of a branch,
27 nor of a separate facility. The electronic operations at premises separate from its
28 banking house or duly authorized facility, ~~must~~ be considered a customer
29 electronic funds transfer center and may be established subject to rules that the
30 ~~state banking board~~ commissioner adopts.

1 **SECTION 27. AMENDMENT.** Section 6-03-05 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **6-03-05. Loans on real estate - Regulation - Limitation.** Before any real estate loan
4 is made an appraisal must be conducted by a licensed or certified appraiser if required by the
5 federal Financial Reform, Recovery, and Enforcement Act of 1989 [Pub. L. 101-73; 103 Stat.
6 512; 12 U.S.C. 3332 et seq.] or, if not so required, by an individual or appraisal committee ~~who~~
7 that is independent of the transaction, except no appraisal or formal valuation is required for a
8 real estate loan of one hundred thousand dollars or less. The selected appraiser or appraisal
9 committee shall appraise both the land and the improvements thereon, if any, and shall report
10 to the board of directors or its loan committee, in writing, the results of the appraisal together
11 with any other facts relating to such proposed loan and proposed security as will best enable
12 the board or its loan committee to determine if the loan ~~shall~~ will be granted. Such written
13 report must be made a permanent record in the bank's files and must be made available to the
14 commissioner. Any real estate loan made must conform to loan-to-value limits as established
15 by rule by the ~~state banking board~~ commissioner under chapter 28-32.

16 **SECTION 28. AMENDMENT.** Section 6-03-11 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **6-03-11. Conversion, consolidation, or merger.** Any two or more banking institutions
19 as defined in section 6-01-02, upon making application to the state banking board, may
20 consolidate or merge if authorized by the board into one banking institution under the charter of
21 either existing banking institution on such terms and conditions as lawfully may be agreed upon
22 by a majority of the board of directors of each banking institution proposing to consolidate or
23 merge subject to rules adopted by the ~~state banking board~~ commissioner. Before becoming
24 final, such consolidation or merger must be ratified and confirmed by the vote of the
25 shareholders of each such banking institution owning at least two-thirds of its capital stock
26 outstanding, at a meeting to be held on the call of the directors. Notice of such meeting and of
27 the purpose ~~thereof~~ of the meeting must be given to each shareholder of record by registered
28 or certified mail at least ten days ~~prior to~~ before the meeting. The shareholders may
29 unanimously waive such notice and may consent to such meeting and consolidation or merger
30 in writing. The capital stock and surplus of such consolidated banking institution ~~must~~ may not
31 be less than that required under this title for the organization of a banking institution of the class

1 of the largest consolidating banking institution. Immediately after the consolidation or merger a
2 full report ~~thereof~~ of the consolidation or merger, including a statement of the assets and
3 liabilities of the consolidated banking institution, must be made to the commissioner by the
4 surviving banking institution. Any banking institution may without approval by any state
5 authority convert into or merge or consolidate with a national banking association as provided
6 by federal law. A national bank proposing to merge into a state-chartered bank shall grant the
7 commissioner discretionary authority to conduct an examination. The commissioner shall set
8 fees for such examination at an hourly rate sufficient to cover all reasonable expenses of the
9 ~~department of financial institutions~~ division associated with the examination. Fees must be
10 collected by the commissioner, transferred to the state treasurer, and deposited in the financial
11 institutions regulatory fund.

12 **SECTION 29. AMENDMENT.** Section 6-03-13.1 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **6-03-13.1. Separate facilities authorized.** Upon compliance with section 6-03-13.3,
15 any bank organized under chapter 6-02 and under the supervision of the state banking board,
16 and any national bank doing business in this state, may maintain and operate separate and
17 apart from its banking house facilities, in addition to such service at its main banking house.
18 Any activity incidental to the business of banking may be transacted at a separate facility
19 including receiving deposits of every kind and nature, cashing checks or orders to pay, issuing
20 exchange, making loans, renting safe deposit boxes, exercising fiduciary powers if authorized
21 by the board, and receiving payments payable at the bank. ~~Whenever any~~ If a banking
22 institution that has been granted approval to establish and maintain a facility deems it advisable
23 to discontinue the maintenance of the facility, the banking institution may apply to the state
24 banking board for cancellation and the board may order the cancellation approval within the
25 time the board specifies. The banking institution shall publish notice of the application as
26 required by ~~the board~~ by rule.

27 **SECTION 30. AMENDMENT.** Section 6-03-47.3 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **6-03-47.3. Bank investment in investment company shares.** Financial institutions
30 under the jurisdiction of the ~~state banking board~~ commissioner may invest in shares of
31 investment companies registered under the Investment Companies Act of 1940 and which

1 invest only in investments otherwise permitted under this chapter. The ~~state banking board~~
2 commissioner may ~~issue~~ adopt rules ~~and regulations~~ governing investments by North Dakota
3 financial institutions in shares of registered investment companies.

4 **SECTION 31. AMENDMENT.** Section 6-03-47.4 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **6-03-47.4. Bank investment in federal agricultural mortgage corporation stock.**

7 Financial institutions under the jurisdiction of the ~~state banking board~~ commissioner may invest
8 in stock and equity instruments of the federal agricultural mortgage corporation. The ~~state~~
9 ~~banking board~~ commissioner may adopt rules governing investments by North Dakota financial
10 institutions in the stock and equity instruments of the federal agricultural mortgage corporation.

11 **SECTION 32. AMENDMENT.** Section 6-05-02 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **6-05-02. Compliance with chapter required - Penalty for noncompliance.** ~~No~~ A

14 ~~person, firm, company, copartnership, or corporation, either domestic or foreign, that is not~~
15 organized under this chapter nor subject to ~~its~~ this chapter's provisions, except only national
16 banking corporations, state banks authorized under this chapter, and the Bank of North Dakota,
17 may make use of or display in connection with its business, in signs, letterheads, advertising, or
18 in any other way, such words as "trust", "trust company", or any other word or words of like
19 import, nor may any person or concern do or perform anything in the nature of the business of a
20 trust company until and unless such business is regularly organized and authorized under this
21 chapter. If ~~any~~ a firm or corporation organized ~~prior to~~ before July 1, 1931, ~~has been~~ was
22 granted a charter permitting it to use any word, ~~words,~~ or title contrary to the intent of this
23 section, and by reason of its rights under such charter, the provisions of this section may not be
24 enforced against it during the life of such charter. However, ~~no~~ a renewal charter may not be
25 granted to such person, ~~firm, or corporation~~ permitting the continuance of the use of such word,
26 ~~words,~~ or title contrary to or in violation of this section. Any person, ~~firm, or corporation which,~~
27 that by reason of an existing charter right under any law or statute in effect ~~prior to~~ before
28 July 1, 1931, may be held by the courts not to be affected by this section and which therefore
29 refuses to comply with the provisions of this section, during the period of noncompliance, shall
30 display, prominently and continuously in plain, legible, and clearly discernible lettering on all of
31 its signs, stationery, circulars, and advertising, and in all of its printed or written matter the

1 following words and language: "NOT UNDER THE SUPERVISION OF THE STATE BANKING
2 BOARD OR ~~THE COMMISSIONER~~ DIVISION OF FINANCIAL INSTITUTIONS", and such
3 language must be displayed thereon as prominently as any other matter therein. Any person;
4 ~~firm, company, copartnership, or corporation, domestic or foreign~~, violating any provision of this
5 section, shall forfeit to the state one hundred dollars for every day or part ~~thereof~~ of a day
6 during which such violation continues. In an action brought by the commissioner or any
7 aggrieved person, the court may issue an injunction restraining such person, ~~firm, company,~~
8 ~~copartnership, or corporation~~ from further using such words, terms, or phrases in violation of
9 this section or from further transacting business in such a way or manner as to lead the public
10 to believe that its business is in whole or in part of the nature of a trust company, or that it is
11 under the supervision of the state banking board or ~~the commissioner~~ division of financial
12 services.

13 **SECTION 33. AMENDMENT.** Section 6-05-11.1 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **6-05-11.1. Bonds of officers and employees.** An officer or employee of any trust
16 company, before entering upon the person's duties, shall furnish a bond to the trust company in
17 the sum and upon the conditions as required by the board of directors in keeping with rules
18 adopted by the ~~state banking board~~ commissioner. All bonds must be approved by the board
19 of directors of the trust company and are subject to the approval of the commissioner. A record
20 of the approval of the bonds by the board of directors of the trust company must be made on
21 the records of the trust company and the bonds must be filed with the commissioner.
22 Stockholders of the trust company are not eligible as bondsmen for the officers or employees.

23 **SECTION 34. AMENDMENT.** Section 6-05-15.5 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **6-05-15.5. Structure of trust company - Operating subsidiaries - Notice - Hearing -**
26 **Supervision.**

27 1. A trust company may conduct its business directly or through one or more
28 operating subsidiary organizations, including a limited purpose bank that is
29 established under the laws of a jurisdiction other than this state. The activities of
30 an operating subsidiary of a trust company must be limited to those activities in
31 which the trust company itself could engage.

- 1 2. A trust company that desires to establish or acquire an operating subsidiary ~~must~~
2 shall submit a written notification to the ~~department of financial institutions~~
3 commissioner not less than thirty days before the trust company's investment in
4 the subsidiary organization is made. The notification must include the information
5 specified by the state banking board.
- 6 3. Within ten business days after receipt of the notification by the ~~department~~
7 commissioner, the commissioner shall determine if the notice is complete and shall
8 notify the trust company of the determination. If within the ten business days the
9 commissioner determines that the notice is incomplete, the commissioner shall
10 request the additional information necessary to complete the notice. Within ten
11 days after receipt of the additional information, the commissioner shall notify the
12 trust company by mail of the commissioner's determination of completeness. The
13 commissioner shall inform the state banking board of the receipt of a completed
14 notice. Upon expiration of thirty days from the date for the mailing of a notice of
15 completeness, the trust company's investment in the operating subsidiary in
16 accordance with its notice is deemed approved by the state banking board, unless
17 within that thirty-day period the state banking board has served the trust company
18 with a notice of hearing on the company's proposed investment.
- 19 4. Any hearing required by the state banking board must be commenced and
20 concluded by the issuance of the order of the board within ninety days after the
21 date for the mailing of a notice of completeness by the commissioner. If the
22 hearing is not concluded within the ninety-day period, the investment by the trust
23 company is deemed approved by the state banking board.
- 24 5. The state banking board may prohibit the trust company's investment in an
25 operating subsidiary organization if ~~it~~ the board finds after a hearing:
26 a. The investment will jeopardize the solvency of the trust company; or
27 b. The operation of the trust company through the subsidiary organization will
28 place the trust company in an unsafe and unsound condition.
- 29 6. The state banking board has the same authority to examine and supervise an
30 operating subsidiary as exists for the trust company.

1 **SECTION 35. AMENDMENT.** Section 6-06-06 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **6-06-06. Powers of credit unions.** A credit union has the following powers:

- 4 1. To receive the savings of ~~its~~ the credit union's members either as payment on
5 shares or as deposits, including the right to conduct Christmas clubs, vacation
6 clubs, and other such thrift organizations within ~~its~~ the credit union's membership.
- 7 2. To make loans to members.
- 8 3. To make loans to a cooperative society or other organization having membership
9 in the credit union.
- 10 4. To deposit ~~its~~ the credit union's moneys in state and national banks and trust
11 companies and central credit unions authorized to receive deposits.
- 12 5. To invest in the following:
 - 13 a. In bonds of the United States without limitation in securities issued as direct
14 obligations by the United States government or any agency thereof and in any
15 trust established for investing directly or collectively in such securities.
 - 16 b. In bonds or evidences of debt of this state or in bonds of states of the United
17 States.
 - 18 c. In bonds or certificates of indebtedness of any county, city, or school district in
19 this state, ~~issued pursuant to authority of law~~, but not to exceed thirty percent
20 of the assets of any credit union may be invested in such bonds or certificates
21 of indebtedness.
 - 22 d. In notes or bonds secured by mortgage or deed of trust upon unencumbered,
23 improved real estate in this state, if such investment does not exceed
24 sixty-five percent of the actual cash value of the property mortgaged, and fire
25 and tornado insurance policies are maintained and deposited as collateral to
26 such mortgage, subject to such restriction and regulations as may be imposed
27 by the state credit union board.
 - 28 e. In notes or bonds secured by a security interest or lien upon unencumbered
29 personal property, if the investment does not exceed ninety percent of the
30 actual cash value of the property secured.

- 1 f. In first lien, public utility, industrial, corporation or association bonds, notes, or
2 other evidences of debt issued by corporations located in the United States of
3 America to the extent authorized by the state credit union board.
- 4 g. Subject to rules of the ~~state credit union board~~ commissioner, in shares of
5 investment companies registered under the Investment Companies Act of
6 1940 and which invest only in investments otherwise permissible under this
7 section.
- 8 6. To borrow money as limited in this chapter.
- 9 7. Subject to such regulations as the ~~state credit union board~~ commissioner may
10 prescribe, insurance obtained under title 1 of the National Housing Act must be
11 deemed adequate security.
- 12 8. To sue and be sued.
- 13 9. A credit union may invest in a credit union office building including the lot, piece, or
14 parcel of land on which the ~~same~~ building is located, and in furniture and fixtures,
15 to the extent authorized by regulations issued by the state credit union board.
- 16 10. Every state credit union has the power to purchase, hold, and convey other real
17 estate as ~~herein~~ provided under this section, and not otherwise:
- 18 a. Such as is mortgaged to ~~#~~ the credit union in good faith by way of security for
19 loans, or for debts previously contracted.
- 20 b. Such as is conveyed to ~~#~~ the credit union in good faith in satisfaction of debts
21 previously contracted in the course of ~~its~~ credit union dealings.
- 22 c. Such as ~~#~~ the credit union purchases at sales under judgments, decrees, or
23 mortgages held by the credit union, or purchases to secure debts due to ~~#~~ the
24 credit union.
- 25 Upon transfer to other real estate owned, a current appraisal performed by an
26 independent qualified appraiser must be obtained for all property recorded at or
27 below the lower of twenty-five thousand dollars or ten percent of the credit union's
28 equity. Except as otherwise provided by chapter 10-06.1, a state credit union may
29 hold possession of any real estate acquired after July 1, 1991, under mortgage, or
30 title and possession of any real estate purchased to satisfy indebtedness, for a
31 period not to exceed five years. Except as otherwise provided by chapter 10-06.1,

1 real estate acquired before July 1, 1991, may be held for a period not exceeding
2 five years from July 1, 1991. The commissioner may extend the real estate holding
3 period up to an additional five years upon formal request by a credit union if the
4 credit union has made a good-faith attempt to dispose of the real estate within the
5 five-year period, or disposal within the five-year period would be detrimental to the
6 credit union. Within thirty days after receipt of an adverse decision, the credit
7 union may appeal that decision to the state credit union board.

8 11. Credit unions may engage in any activity in which they could engage if they were
9 federally chartered, subject to rules ~~that of the state credit union board shall adopt~~
10 commissioner.

11 12. To exercise any incidental power necessary or requisite to enable the credit union
12 to carry out effectively the business for which ~~it~~ the credit union is incorporated, or
13 as determined by the board or commissioner by order or rule.

14 **SECTION 36. AMENDMENT.** Section 6-06-08 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **6-06-08. State credit union board to supervise credit unions - Reports -**
17 **Examinations - Fees.**

18 1. Credit unions and the permanent loan funds of credit unions, if any, are under the
19 supervision of the commissioner. Credit unions shall report to the commissioner
20 when called by the commissioner, and at least twice each year. The commissioner
21 shall prescribe the forms for the reports. The reports must be received by the
22 commissioner within thirty days of the call. At the discretion of the commissioner, a
23 call may be complied with by submission of a photocopy of the call report
24 submitted to the national credit union administration, or a printout retrieved from
25 division computer facilities ~~in the department of financial institutions~~ and connected
26 to those of the national credit union administration. The commissioner may call for
27 special reports from any credit union whenever in the commissioner's judgment it is
28 necessary to obtain complete knowledge of the condition of the credit union. Every
29 credit union that fails to make and transmit any report required ~~in pursuance of~~
30 under this section shall forfeit and pay to the state a penalty of two hundred dollars

- 1 for delinquency. The commissioner may waive the penalty for reports filed late, not
2 exceeding three business days beyond the due date required by this section.
- 3 2. Credit unions must be examined at least once each twenty-four months by the
4 commissioner. In lieu of ~~the~~ these examinations ~~herein required~~, the
5 commissioner may accept any examination made or obtained by the national credit
6 union administration; and may in the commissioner's discretion conduct a joint
7 examination with the national credit union administration.
- 8 3. If it is determined through an examination or otherwise that the credit union is
9 violating the provisions of this chapter, or is insolvent, the state credit union board
10 may serve notice on the credit union of ~~its~~ the board's intention to revoke the
11 charter. If such violations continue for a period of fifteen days after such notice, the
12 board may revoke the charter and take possession of the business and property of
13 such credit union, and shall maintain possession then until such time as ~~it~~ the
14 board permits the reinstatement of the charter and the continuation of business by
15 the credit union, or until ~~its~~ the credit union's affairs finally are liquidated. The
16 board may take similar action if any required report remains in arrears for more
17 than fifteen days.
- 18 4. Every state credit union, including North Dakota central credit union, placed under
19 the jurisdiction and control of the state credit union board and the commissioner by
20 the provisions of this title shall pay a yearly assessment. This assessment is to be
21 determined by the state credit union board as necessary to fund that portion of the
22 department's budget relating to the regulation of state-chartered credit unions. The
23 assessment must be paid to the state treasurer within thirty days of each June
24 thirtieth. Credit unions that have not been examined by the commissioner or the
25 state credit union board for three years ~~prior to~~ before any assessment date are
26 not required to pay the assessment. The state treasurer shall report the payments
27 of fees to the commissioner, and if any credit union is delinquent more than twenty
28 days in making payment, the board may make an order suspending the functions
29 of the delinquent credit union until payment of the amount due. The commissioner
30 may assess a penalty of five dollars for each day that the penalty is delinquent.
31 The examination fee for North Dakota central credit union shall be charged by the

1 ~~department at~~ division an hourly rate to be set by the commissioner, sufficient to
2 cover all reasonable expenses of the ~~department associated~~ division with the
3 examination. All fees and penalties under this section must be paid to the state
4 treasurer and deposited in the financial institutions regulatory fund.

5 **SECTION 37. AMENDMENT.** Section 6-06-08.4 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **6-06-08.4. Prompt corrective action.** ~~Whenever~~ If the state credit union board
8 determines that any credit union under ~~its~~ the board's supervision does not have adequate
9 capital, the state credit union board, without a hearing, may declare that the credit union is
10 either undercapitalized, significantly undercapitalized, or critically undercapitalized. For the
11 purposes of this section, a credit union is undercapitalized if it either has a net worth ratio of
12 less than six percent or fails to meet any applicable risk-based net worth requirement
13 established by the ~~board~~ commissioner by rule. A credit union is significantly undercapitalized
14 if it has a net worth ratio of less than four percent or has a net worth ratio of less than five
15 percent and fails to submit an acceptable net worth restoration plan or materially fails to
16 implement a plan accepted by the board. A credit union is critically undercapitalized if it has a
17 net worth ratio of less than two percent or such higher net ratio, not exceeding three percent, as
18 the board may specify. The board, by order, may require a credit union that is undercapitalized
19 to annually set aside as net worth an amount equal to up to four-tenths percent of ~~its~~ the credit
20 union's total assets. Additionally, the board may require an undercapitalized credit union to
21 submit an acceptable net worth restoration plan to the board within the time allowed by the
22 board. For a significantly undercapitalized credit union that has no reasonable prospect of
23 becoming adequately capitalized or a critically undercapitalized credit union, the board may
24 take possession of the credit union, appoint a conservator or liquidating agent for the credit
25 union, or take such other action as the board determines would be appropriate to resolve the
26 problems of the credit union.

27 A credit union that is the subject of such a board declaration may ~~ask for~~ request a
28 hearing before the board within five days after service upon ~~it~~ the credit union of the board's
29 declaration. The application for a hearing must be granted and the hearing must be held not
30 later than ten days after the application is filed. A complete record of the hearing must be
31 established and maintained. On the basis of the hearing, the board shall enter a final order.

1 The institution may appeal the order to the district court of Burleigh County, within ten days after
2 the order is served upon ~~it~~ the credit union. The appeal is governed by chapter 28-32.

3 **SECTION 38. AMENDMENT.** Subdivision a of subsection 2 of section 6-06-35 of the
4 North Dakota Century Code is amended and reenacted as follows:

5 a. A federal credit union, organized under the laws of the United States may be
6 converted into a state credit union by (1) complying with all federal
7 requirements requisite to enabling ~~it~~ the federal credit union to convert to a
8 state credit union or to cease being a federal credit union, (2) filing with the
9 state credit union board proof of such compliance, satisfactory to the
10 commissioner, (3) filing with the commissioner an organization certificate and
11 bylaws, both in triplicate, as required by section 6-06-02, and (4) granting
12 discretionary authority to the commissioner to conduct an examination ~~prior to~~
13 before the conversion date. The commissioner shall set fees for such
14 examination at an hourly rate sufficient to cover all reasonable expenses of
15 the ~~department of financial institutions~~ division associated with the
16 examination. Fees must be collected by the commissioner, transferred to the
17 state treasurer, and deposited in the financial institutions regulatory fund.

18 **SECTION 39. AMENDMENT.** Section 6-06-36 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **6-06-36. Merger.** Any credit union chartered under this chapter or under act of
21 Congress may merge under rules ~~and regulations established~~ adopted by the ~~state credit union~~
22 ~~board~~ commissioner. A federal credit union proposing to merge into a state-chartered credit
23 union shall grant the commissioner discretionary authority to conduct an examination. The
24 commissioner shall set fees for such examination at an hourly rate sufficient to cover all
25 reasonable expenses of the ~~department of financial institutions~~ division associated with the
26 examination. Fees must be collected by the commissioner, transferred to the state treasurer,
27 and deposited in the financial institutions regulatory fund. The secretary of state shall charge a
28 fee of fifty dollars for all services in connection with a merger authorized by the state credit
29 union board, including filing of a certificate of organization or bylaws, and issuing or canceling
30 charters.

1 **SECTION 40. AMENDMENT.** Section 6-06-37 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **6-06-37. Rules and regulations.** The ~~state credit union board~~ commissioner shall
4 ~~prescribe~~ adopt rules and regulations regarding the merger, consolidation, and dissolution of
5 corporations organized under this chapter and acts of Congress.

6 **SECTION 41. AMENDMENT.** Section 6-07.1-21 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **6-07.1-21. Filing claims.** A person who has a claim against the estate of a state trust
9 company in liquidation ~~must~~ shall file proof of claim ~~pursuant to~~ under rules adopted by the
10 ~~state banking board~~ commissioner. The priority of disposition of assets from the estate of a
11 state trust company must be in accordance with the order of each class as provided by this
12 section. Every claim in each class must be paid in full, or adequate funds must be retained for
13 that payment, before the members of the next class receive any payment. A subclass may not
14 be established within a class, except for a preference or subordination within a class expressly
15 created by contract or other instrument in the articles of association. Assets must be distributed
16 in the following order of priority: administrative expenses; approved claims of secured trust
17 deposits; approved claims of secured creditors; approved claims by beneficiaries insufficient to
18 satisfy all fiduciary claims to commingled fiduciary funds or missing fiduciary property and
19 approved claims of clients of the state trust company; other approved claims of general
20 creditors not falling within a higher priority under this section; approved claims of a type
21 described above that were not filed within the period prescribed; and claims of capital note or
22 debenture holders or holders of similar obligations and proprietary claims of shareholders,
23 participants, or other owners accorded the terms established by issue, class, or series. After
24 completion of the liquidation, any unclaimed property remaining in the hands of the receiver
25 must be considered abandoned property.

26 **SECTION 42. AMENDMENT.** Subsection 3 of section 6-08.3-01 of the North Dakota
27 Century Code is amended and reenacted as follows:

28 3. "Commissioner" means the insurance commissioner ~~of financial institutions~~.

29 **SECTION 43. AMENDMENT.** Section 6-08.3-09 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **6-08.3-09. Reports.** A reciprocating state bank holding company that directly or
2 indirectly, through any subsidiary, acquires a bank ~~pursuant to~~ under this chapter shall file with
3 the board copies of all regular and periodic reports that the bank holding company is required to
4 file under section 13 or 15(d) of the Securities and Exchange Act of 1934, as amended [ch. 404;
5 48 Stat. 881; 15 U.S.C. 78m and 78o(d)], but excluding any portions not available to the public,
6 and such other reports as ~~the board~~ may ~~require~~ be required by rule.

7 **SECTION 44. AMENDMENT.** Subsection 1 of section 6-13-01 of the North Dakota
8 Century Code is amended and reenacted as follows:

9 1. "Commissioner" means the insurance commissioner ~~of financial institutions~~.

10 **SECTION 45. AMENDMENT.** Section 7-01-03 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **7-01-03. Articles of incorporation - Contents.** Whenever any number of persons, not
13 less than nine, ~~desires~~ desire to incorporate a building and loan association, having for their
14 object the conduct and operation of such an association as defined in this title, they shall
15 prepare and file articles of incorporation to that effect in the manner specified in this title.
16 Unless otherwise provided ~~herein~~ under this title the general law governing profit corporations
17 applies to such association. The articles of incorporation must include the following:

- 18 1. The name of the association. The name ~~must~~ may not be the same as, nor too
19 closely resemble, that name in use by any existing corporation established under
20 the laws of this state. The words "building and loan association" or "savings and
21 loan association" must form a part of the name, and only corporations and
22 associations organized under this chapter are entitled to use a name embodying
23 either of said combinations of words. Any association in existence on July 1, 1931,
24 may continue and renew its charter in the name under which it was then operating.
25 Any corporation or association organized or operating under this chapter ~~is~~
26 ~~authorized to~~ may change its name to embody the words "savings and loan
27 association".
- 28 2. The principal office, or place of business of the association, which must be within
29 this state.
- 30 3. The territory in which such association proposes to operate.

- 1 4. The amount of ~~its~~ the association's authorized capital shares and the number of
- 2 shares into which the same must be divided. Such capital must be divided into
- 3 shares having a par value of fifty dollars, one hundred dollars, or two hundred
- 4 dollars.
- 5 5. A provision that such association is organized under this chapter for the purpose
- 6 ~~herein~~ expressed under this chapter.
- 7 6. The name, residence, and occupation of, and a statement of the number of the
- 8 shares subscribed and the amount of cash paid upon such shares by, each of the
- 9 persons who subscribed and acknowledged the said articles, a majority of whom
- 10 must be citizens of this state and who thereafter must be called incorporators.
- 11 7. The term of corporate existence, which may not exceed twenty years but which
- 12 may be extended as provided in this chapter.
- 13 8. The number of directors of the association.

14 Immediately upon the preparation of such articles of incorporation, and before the same are
15 filed in the office of the secretary of state, four copies ~~thereof~~ of the articles must be filed in the
16 office of the ~~commissioner~~ division of financial institutions for the use of the state banking
17 board.

18 **SECTION 46. AMENDMENT.** Section 7-01-09 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **7-01-09. Issuance of certificate by state banking board - Filing of articles.** If the
21 state banking board is satisfied from ~~its~~ the investigation that a certificate should ~~issue, it be~~
22 issued, within sixty days after the articles of incorporation and bylaws have been presented to ~~it~~
23 the board, the board shall instruct the commissioner ~~of financial institutions~~ to issue, under the
24 commissioner's hand and official seal, a certificate reciting in substance: that the articles of
25 incorporation and bylaws have been filed ~~in~~ with the commissioner's office insurance
26 commissioner; that said articles and bylaws conform to all the requirements of this title; that the
27 board has approved the same; that the incorporators are fit and proper persons to conduct the
28 business of a building and loan association as defined in this title; that there is a reasonable
29 need for the existence of said building and loan association; and that the public convenience
30 and advantage will be promoted thereby. Such certificate must be made in quadruplicate and
31 attached to each copy of the articles of incorporation, one of which must be retained by the

1 insurance commissioner, and the other three must be returned to the incorporators who
2 forthwith shall file one copy thereof in the office of the secretary of state, one in the office of the
3 recorder of the county in which the principal place of business of said association is located,
4 and the other must be retained by the association. Immediately upon the receipt of said
5 certified copy, the secretary of state shall issue a certificate of incorporation, ~~whereupon~~ after
6 which the incorporation of the association is deemed complete.

7 **SECTION 47. AMENDMENT.** Section 7-03-04 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **7-03-04. Agents and solicitors - Licenses ~~and revocation thereof~~ - Revocation -**
10 **Fees.** ~~No~~ A person receiving compensation from a building and loan association may not act
11 as solicitor or agent for the sale of the shares of stock, shares of membership, certificates, or
12 other securities or forms of investment issued by such association, except shares issued in
13 connection with and not exceeding the amount of any loan as made, until that person first has
14 procured a license therefor from the insurance commissioner ~~of financial institutions~~. ~~No~~ A
15 license, ~~however, may be~~ is not required by of any officer or director of such association. To
16 obtain such license there must be filed with the insurance commissioner a duplicate of the
17 authorization or appointment issued to such person, together with a request from a licensed
18 association that a license be issued to that person to act as an agent or solicitor for ~~it~~ that
19 association, accompanied by a fee of two dollars. All such licenses expire by limitation on the
20 thirty-first day of December succeeding their issue, and may be renewed from time to time for
21 an additional period of one year upon a request therefor from the association originally applying
22 and upon payment of a renewal fee of two dollars. Any such license may be revoked at any
23 time, on the application of the association for ~~whom~~ which it was issued, or may be revoked by
24 the insurance commissioner for cause. The insurance commissioner shall keep an alphabetical
25 list of the names of persons ~~to whom~~ for which such licenses are issued with the date of issue
26 and renewal, and the name of the association for ~~whom~~ which such licensee is authorized to
27 act. All such licenses must be issued under rules ~~and regulations to be prescribed~~ adopted by
28 the ~~state banking board~~ insurance commissioner.

29 **SECTION 48. AMENDMENT.** Section 7-05-01 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **7-05-01. Examination and fees therefor - Fees.** The insurance commissioner of
2 ~~financial institutions~~, at least once each year or ~~oftener~~ more often if the insurance
3 commissioner deems it necessary or expedient, shall examine ~~into~~ the affairs of all domestic
4 associations doing business in this state. ~~Whenever~~ If persons holding ten percent or more of
5 the subscribed shares of any association file a written application with the insurance
6 commissioner requesting the insurance commissioner to make an examination of any such
7 association, the insurance commissioner shall make such examination ~~forthwith~~. Upon the
8 completion of any examination of any association made by the insurance commissioner or
9 under the direction of the insurance commissioner, the association so examined shall pay to the
10 state treasurer a fee. Fees for such examination must be charged by the ~~department~~ division
11 of financial institutions at an hourly rate to be set by the insurance commissioner, sufficient to
12 cover all reasonable expenses of the ~~department~~ division associated with the examinations
13 provided for by this section. The commissioner shall report such payment to the state banking
14 board, and if any such association is delinquent more than twenty days in making such
15 payment, the state banking board may make an order suspending the functions of such
16 association until payment of the amount due. The insurance commissioner may assess a
17 penalty of five dollars additional for each day of delay in payment. In lieu of the examinations
18 ~~herein~~ required under this section, the insurance commissioner may accept any examination
19 made by a federal home loan bank, the federal home loan bank board, or by the federal savings
20 and loan insurance corporation. The insurance commissioner may in the insurance
21 commissioner's discretion conduct a joint examination with said described federal agencies.
22 Fees and penalties under this section must be paid to the state treasurer and deposited in the
23 financial institutions regulatory fund.

24 **SECTION 49. AMENDMENT.** Section 7-05-03 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **7-05-03. Building and loan associations.** The insurance commissioner ~~of financial~~
27 ~~institutions~~ shall keep and preserve in permanent form a full record of the proceedings of the
28 insurance commissioner under this title, including a concise statement of each association
29 examined, and the commissioner shall report to the state banking board as provided by section
30 6-01-10.

1 **SECTION 50.** A new section to chapter 10-04 of the North Dakota Century Code is
2 created and enacted as follows:

3 **Definitions.** As used in this title, unless the context or subject matter otherwise
4 requires:

- 5 1. "Commissioner" means the insurance commissioner.
- 6 2. "Department" means the department of finance services.
- 7 3. "Director" means the director of securities.
- 8 4. "Division" means the division of securities.

9 **SECTION 51.** A new section to chapter 10-04 of the North Dakota Century Code is
10 created and enacted as follows:

11 **Insurance commissioner to be substituted for securities commissioner - Office of**
12 **the division of securities to be substituted for office of the securities commissioner.**

13 Wherever the term "securities commissioner" or any derivative of the term when used in the
14 context to refer to that position appears in the code, the term "insurance commissioner" must be
15 substituted therefor. Wherever the term "office of the securities commissioner" or any
16 derivative of the term is used, the term "office of the division of securities" must be substituted
17 therefor. The insurance commissioner shall assume the duties, functions, and powers of the
18 securities commissioner.

19 **SECTION 52. AMENDMENT.** Section 10-04-03 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **10-04-03. Administration of chapter - Director - Deputy.**

- 22 ~~4. The securities commissioner must be appointed by the governor and confirmed by~~
23 ~~the senate and shall hold office for a term of four years, beginning on the first day~~
24 ~~of July following a national presidential election and continuing until a successor~~
25 ~~has been appointed, confirmed by the senate, and has qualified, unless removed~~
26 ~~as herein provided. If the senate is not in session, the governor may make an~~
27 ~~interim appointment, and the interim appointee shall hold office until the senate~~
28 ~~confirms or rejects the appointment. The commissioner must be skilled in~~
29 ~~securities and may not be an incumbent of any other public office in the state. The~~
30 ~~commissioner may not own or control any security required to be registered under~~
31 ~~this chapter and may not be an officer, director, or employee of any dealer,~~

1 ~~salesman, investment adviser, or investment adviser representative required to be~~
2 ~~registered under this chapter. The governor may remove from office any~~
3 ~~commissioner who fails to discharge faithfully the duties of office or who becomes~~
4 ~~disqualified under the provisions of this section.~~

5 ~~It is the prime duty of the~~ The commissioner to shall administer the provisions
6 of this chapter. ~~The commissioner shall receive a salary within the amount~~
7 ~~appropriated for salaries by the legislative assembly. The commissioner shall use~~
8 ~~a seal with the words "securities commissioner, North Dakota" and such design as~~
9 ~~the commissioner may prescribe engraved thereon by which seal the~~
10 ~~commissioner may authenticate documents used in the administration of this~~
11 ~~chapter. The commissioner may employ such employees as are necessary for the~~
12 ~~administration of this chapter. In~~ The director may appoint a deputy and in the
13 absence or disability of the ~~commissioner~~ director, the deputy shall administer the
14 provisions of this chapter as acting ~~commissioner~~ director.

15 2. ~~The commissioner shall have authority to~~ may administer oaths in, and to
16 prescribe forms for, all matters arising under this chapter. ~~The commissioner may~~
17 ~~from time to time make, amend, and rescind such rules, forms, and orders as are~~
18 ~~necessary under this chapter, including rules and forms governing registration~~
19 ~~statements, applications and reports, and defining any terms, whether or not used~~
20 ~~in this chapter, if the definitions are consistent with this chapter. The commissioner~~
21 shall cooperate with the administrators of the securities laws of other states and of
22 the United States with a view toward achieving maximum uniformity in the
23 interpretation of like provisions of the laws administered by them and in the forms
24 which are required to be filed under such law.

25 3. ~~In addition to their regular compensation, the commissioner and the~~
26 ~~commissioner's employees shall be paid travel expenses necessary and actually~~
27 ~~incurred in the performance of their duties.~~

28 4. All fees collected under this chapter must be deposited in the general fund of the
29 state treasury, except civil penalties collected from enforcement actions for the
30 purpose of distribution to aggrieved investors may be deposited in an investor
31 restitution fund, and all other civil penalties and moneys collected pursuant to an

1 administrative action, court order or judgment, including investigation costs and
2 attorney's fees in a securities action brought by the commissioner, must be
3 deposited in the general fund.

4 ~~5-~~ The commissioner may honor requests from interested persons for the issuance of
5 a statement or opinion concerning the applicability of this chapter or the rules
6 adopted under this chapter to any transaction or proposed transaction ~~which~~ that
7 may be subject to this chapter. Any such request must be accompanied by a
8 nonrefundable fee of one hundred fifty dollars.

9 **SECTION 53. AMENDMENT.** Subsection 2 of section 10-04-05 of the North Dakota
10 Century Code is amended and reenacted as follows:

11 2. Securities issued by and representing an interest in or a debt of, or guaranteed by,
12 a national bank or a national bank and trust company or bank or credit or loan or
13 savings association or savings and loan association or credit union organized
14 pursuant to an Act of Congress and supervised by the United States, or any
15 agency thereof, or issued or guaranteed as to both principal and interest by an
16 international bank of which the United States is a member, or issued by and
17 representing an interest in or a debt of, or guaranteed by, a state bank, trust
18 company, savings bank, savings institution, or credit union organized and
19 supervised under the laws of any state, and securities of any person subject to
20 examination by the commissioner under the division of financial institutions of
21 ~~North Dakota.~~

22 **SECTION 54. AMENDMENT.** Subdivision c of subsection 3 of section 10-04-07 of the
23 North Dakota Century Code is amended and reenacted as follows:

24 c. If the person ~~who~~ is registering the securities is not domiciled in this state and
25 is not a corporation or limited liability company organized or authorized to
26 transact business under the laws of this state, a consent to service of process
27 conforming to the requirements of section 10-04-14. Such filing with the
28 commissioner, which may be made either by delivery in the office of the
29 ~~commissioner~~ division or by posting by registered or certified mail properly
30 addressed to the commissioner, shall constitute the registration of securities
31 by description and such registration ~~shall become~~ becomes effective as of the

1 time of such filing. Upon such registration by description, securities may be
2 sold in this state by the registered dealer.

3 **SECTION 55. AMENDMENT.** Section 10-04-07.1 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **10-04-07.1. Registration by announcement - Secondary - Fees.**

6 1. Securities that have been outstanding and in the hands of the public for not less
7 than one year as the result of prior original registration in North Dakota or through
8 securities and exchange commission registration, by the issuer, or by the
9 underwriter on behalf of an issuer, are entitled to registration by announcement in
10 the manner and subject to the conditions provided by this section.

11 In addition to the foregoing, stock, having equal voting rights with other
12 classes, of life insurance companies may also qualify for registration under this
13 section provided the company has been in continuous operation for twenty years
14 immediately preceding the date of filing for registration and provided further that in
15 addition to supplying the information required by subdivisions a through c of
16 subsection 2 the applicant can supply all of the following:

- 17 a. A balance sheet and an earnings statement showing statutory net earnings
18 after all dividends (returned premiums) to policyholders and after all expenses
19 including state and federal income taxes for the fiscal period ended not more
20 than twelve months ~~prior to~~ before the filing date upon which either an
21 unqualified or a qualified opinion has been expressed by a certified public
22 accountant; provided, however, that any qualification of opinion relates only to
23 generally accepted principles of accounting which may have been modified to
24 meet the reporting requirements of the various state insurance departments.
- 25 b. Such balance sheet separates the surplus account into its component parts
26 and shows a positive balance in the accumulated unrestricted retained
27 earnings account, on statutory basis.
- 28 c. Earnings statements for the four fiscal years immediately preceding the
29 beginning date of the earnings statement required in subdivision a prepared
30 by the same certified public accountant showing statutory net earnings after
31 the deductions enumerated in subdivision a for each fiscal year; provided,

- 1 however, that these statements need not be accompanied by an unqualified
2 or a qualified opinion of the certified public accountant unless such certified
3 public accountant did actually perform an audit of the company for any year or
4 years covered by the earnings statements in which case the requirements of
5 subdivision a apply for the year or years so audited.
- 6 d. A statement prepared by a certified public accountant or actuary showing a
7 net gain in insurance in force for each of the last five fiscal years.
- 8 2. Securities entitled to registration by announcement may be registered only by a
9 dealer registered in the office of the ~~commissioner~~ division as provided for in
10 section 10-04-10 by filing in the office of the ~~commissioner~~ division a written
11 announcement of intention to trade in the securities containing the following:
- 12 a. Name of issuer and location of the headquarters or principal office.
13 b. A brief description of the security, including price and current earnings.
14 c. A statement that the securities have been outstanding and in the hands of the
15 public not less than one year as aforesaid.
16 d. A balance sheet not more than twelve months old.
17 e. A statement that the security has been registered in North Dakota or by the
18 securities and exchange commission.
- 19 3. The filing of such announcement in the office of the ~~commissioner~~ division
20 constitutes the registration of the security, unless advised to the contrary within
21 forty-eight hours or advised to furnish additional information, and such dealer shall
22 pay to the commissioner a filing fee of twenty-five dollars. Upon registration, such
23 securities may be sold in this state for a period of one year from date of registration
24 by registered dealers at a price or prices reasonably related to the current market
25 price of such security at the time of sale, subject, however, to any and all rights and
26 authority granted the commissioner and to any person or purchaser under chapter
27 10-04, in respect of securities registered in the office of the ~~commissioner~~ division
28 by description or qualification. ~~No~~ A security registered under this section ~~shall~~
29 may not be sold directly or indirectly for the benefit of the issuer, or an underwriter
30 of such securities, or for the promotion of any scheme or enterprise with the intent
31 of violating or evading any provision of this chapter; provided, that ~~no~~ a security,

1 the registration of which has been revoked by the commissioner, or application for
2 registration of which has been denied by the commissioner, or withdrawn by the
3 applicant, ~~shall~~ may not be registered under this section.

4 4. Securities registered ~~pursuant to~~ under section 10-04-07 or 10-04-08 become
5 eligible for trading in the secondary market at current market prices upon
6 completion of the original offering when said securities are outstanding and in the
7 hands of the public and remain so until the end of the registration year when
8 renewal for secondary is permissible. Notification of completion of initial offering
9 should be sent to the commissioner when the offering is completed requesting
10 change to secondary.

11 **SECTION 56. AMENDMENT.** Section 10-04-08 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **10-04-08. Registration by qualification.** Securities required to be registered by
14 qualification under this chapter before they may be sold in this state must be registered as
15 provided in this section. Application for registration of securities by qualification must be made
16 by the issuer of the securities or by a registered dealer by filing in the office of the
17 ~~commissioner~~ division:

- 18 1. An application for registration ~~which~~ must be made in writing or on forms
19 prescribed by the commissioner and ~~which~~ must contain the following information
20 and be accompanied by the following documents:
- 21 a. With respect to the applicant or issuer and any significant subsidiary: its
22 name, address, and form of organization; the state of foreign jurisdiction and
23 date of its organization; the general character and location of its business; a
24 general description of its physical properties and equipment; and a statement
25 of the general competitive conditions in the industry or business in which it is
26 or will be engaged.
- 27 b. With respect to every director and officer of the issuer, or person occupying a
28 similar status or performing similar functions: the person's name, address,
29 and principal occupation for the past five years; the amount of securities of the
30 issuer held by the person as of a specified date within thirty days of the filing
31 of the application for registration; the amount of the securities covered by the

- 1 application for registration to which the person has indicated an intention to
2 subscribe; and a description of any material interest in any transaction with
3 the issuer or any subsidiary effected within the past three years or proposed
4 to be effected.
- 5 c. With respect to persons covered by subdivision b: the remuneration paid
6 during the past twelve months and estimated to be paid during the next twelve
7 months, directly or indirectly, by the issuer to all those persons in the
8 aggregate.
- 9 d. With respect to any person owning of record, or beneficially if known, ten
10 percent or more of the outstanding shares of any class of equity security of
11 the issuer: the information specified in subdivision b other than the person's
12 occupation.
- 13 e. With respect to every promoter if the issuer was organized within the past
14 three years: the information specified in subdivision b, any amount paid to the
15 promoter within that period or intended to be paid to the promoter, and the
16 consideration for any such payment.
- 17 f. With respect to any person on whose behalf any part of the offering is to be
18 made in a nonissuer distribution: the person's name and address; the amount
19 of securities of the issuer held by the person as of the date of the filing of the
20 application for registration; a description of any material interest in any
21 transaction with the issuer or any subsidiary effected within the past three
22 years or proposed to be effected; and a statement of the person's reasons for
23 making the offering.
- 24 g. The title, kind, classes, and amount of securities to be offered in this state; the
25 proposed offering price to the public or the method by which ~~the price~~ the price is to
26 be computed; any variation therefrom at which any proportion of the offering is
27 to be made to any person or class of persons other than the underwriters, with
28 a specification of any such person or class; the basis upon which the offering
29 is to be made if otherwise than for cash; the maximum amount of commission
30 or other form of remuneration to be paid in cash or otherwise, directly or
31 indirectly, for or in connection with the sale or offering for sale of such

1 securities; the estimated aggregate underwriting and selling discounts or
2 commissions and finders' fees, including separately cash, securities,
3 contracts, or anything else of value to accrue to the underwriters or finders in
4 connection with the offering, or, if the selling discounts or commissions are
5 variable, the basis of determining them and their maximum and minimum
6 amounts; the estimated amounts of other selling expenses, including legal,
7 engineering, and accounting charges and a statement as to what person,
8 corporation, or limited liability company shall be responsible for payment of
9 the same; the name and address of every underwriter and every recipient of a
10 finder's fee; a copy of any underwriting or selling-group agreement pursuant
11 to which the distribution is to be made, or the proposed form of any such
12 agreement whose terms have not yet been determined; and a description of
13 the plan of distribution of any securities which are to be offered otherwise than
14 through an underwriter.

15 h. The estimated cash proceeds to be received by the issuer from the offering;
16 the purposes for which the proceeds are to be used by the issuer; the amount
17 to be used for each purpose; the amounts of any funds to be raised from other
18 sources to achieve the purposes stated; the sources of any such funds; and, if
19 any part of the proceeds is to be used to acquire any property, including
20 goodwill, otherwise than in the ordinary course of business, the names and
21 addresses of the vendors, the purchase price, the names of any persons who
22 have received commissions in connection with the acquisition, and the
23 amounts of any such commissions and any other expense in connection with
24 the acquisition.

25 i. A description of each and every stock option or other security option
26 outstanding, or to be created in connection with the offering, including the
27 price at which such options may be exercised together with the amount of any
28 such options held or to be held by every person.

29 j. The capitalization and long-term debt of the issuer and any subsidiary,
30 including a description of each security outstanding or being registered or
31 otherwise offered, and a statement of the amount and kind of consideration

- 1 for which the issuer or any subsidiary has issued any of its securities within
2 the past two years or is obligated to issue any of its securities.
- 3 k. The dates of, parties to, and general effect concisely stated of, every
4 management or other material contract made or to be made otherwise than in
5 the ordinary course of business if it is to be performed in whole or in part at or
6 after the filing of the application for registration or was made within the past
7 two years, together with a copy of every such contract; and a description of
8 any pending litigation or proceeding to which the issuer is a party and which
9 affects its business or assets.
- 10 l. A detailed statement showing the items of cash, property, services, patents,
11 goodwill, and any other consideration for which any securities of the issuer
12 have been within two years or are to be issued in payment.
- 13 m. A copy of any prospectus, pamphlet, circular, form letter, advertisement, or
14 other sales literature intended as of the effective date to be used in
15 connection with the offering.
- 16 n. A specimen or copy of the security being registered; a copy of the issuer's
17 articles of incorporation and bylaws, as currently in effect; and a copy of any
18 indenture or other instrument covering the security to be registered.
- 19 o. A balance sheet of the issuer as of a date within four months prior to the filing
20 of the application for registration; a profit and loss statement and analysis of
21 surplus for each of the three fiscal years preceding the date of the balance
22 sheet and for any period between the close of the last fiscal year and the date
23 of the balance sheet, or for the period of the issuer's and any predecessor's
24 existence if less than three years; and, if any part of the proceeds of the
25 offering is to be applied to the purchase of any business, the same financial
26 statements which would be required if the business were the registrant.
- 27 p. Other states in which it is proposed to offer the securities for sale to the
28 public; other states in which the securities are eligible for sale to the public;
29 states which have refused, by order or otherwise, to render the securities
30 eligible for sale to the public or have revoked or suspended the right to sell the
31 securities, or in which an application for registration has been withdrawn; and,

- 1 if application has been made to register the securities under the federal
2 Securities Act of 1933, the date upon which the application to register the
3 securities was first filed, and a statement as to whether registration under that
4 Act is effective, and if so, the effective date.
- 5 q. Such additional information as the commissioner requires by rule or order or
6 may subsequently request.
- 7 2. Payment of a filing fee for each security or class of security to be registered as
8 follows:
- 9 a. One-tenth of one percent of the first seven hundred fifty thousand dollars of
10 the aggregate offering price of each security or class of security to be
11 registered.
- 12 b. One-twentieth of one percent of any amount in excess of seven hundred fifty
13 thousand dollars of the aggregate offering price of each security or class of
14 security to be registered.
- 15 c. In no event may such filing fee be less than one hundred dollars for each
16 security or class of security to be registered. If the application for filing is
17 denied, such filing fee less the actual cost to the state of processing and
18 investigating as determined by the commissioner must be returned to the
19 applicant.
- 20 d. Provided, further, that any applicant may increase the aggregate amount of
21 securities under this subdivision before the expiration of one year from the
22 date of the certificate of effectiveness at the same reduced fee, which must be
23 computed as provided in subdivisions a and b as a separate fee for each
24 additional amount registered, as if the additional securities had been included
25 in the other registration of that year, registration year and not calendar year.
- 26 e. For the renewal of the registration of securities for additional periods of one
27 year, there must be paid a renewal fee of one hundred dollars.
- 28 3. If the applicant is not domiciled in this state and is not a corporation or limited
29 liability company organized or authorized to transact business under the laws of
30 this state, a consent to service of process conforming to the requirements of
31 section 10-04-14.

1 4. The commissioner may by rule or order require as a part of the application for
2 registration under this section that a prospectus containing any designated part of
3 the information specified in subsection 1 be submitted to the commissioner and the
4 same prospectus must be sent or given to each person to whom a sale or an offer
5 to sell is made. The commissioner may by rule or otherwise permit the omission of
6 any item of information or document from any application for registration. In all
7 cases in which an application is filed to register securities and a registration
8 statement covering the same securities has been filed with the federal securities
9 and exchange commission, a copy of the registration statement so filed must be
10 accepted by the commissioner in lieu of the information specified in subdivisions a
11 through q of subsection 1, except that it must be accompanied by a statement of
12 the amount of such securities to be offered in this state. All of the statements,
13 exhibits, or documents of every kind required under this section must be certified
14 by the applicant or the issuer or any person having knowledge of the facts. An
15 applicant may, with the consent of the commissioner, amend or withdraw an
16 application and any or all statements, exhibits, or documents filed therewith under
17 this section at any time prior to the registration or prior to any offering and sale of
18 the securities sought to be registered or the entry of an order denying the
19 registration of such securities, but in no event may the fee be returned.

20 Registration under this section is effective for a period of one year.

21 **SECTION 57. AMENDMENT.** Section 10-04-09 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **10-04-09. Suspension or revocation of registration of securities.** The
24 commissioner may revoke the registration of any securities registered under this chapter if, after
25 a hearing or opportunity for hearing as provided in section 10-04-12, the commissioner finds
26 that any provisions of this chapter or any rule, order, or condition lawfully imposed under this
27 chapter has been violated, or if the commissioner finds any of the following:

28 1. The sale of such securities would work or tend to work a fraud, or deception upon
29 the purchasers thereof or the public, or that the disposal of the securities is on
30 unfair terms, or if the plan of business of the applicant appears to be unfair, unjust,
31 or inequitable.

- 1 2. The issuer of such securities is insolvent, or has violated any of the provisions of
- 2 this chapter or any order of the commissioner of which such issuer has notice, or
- 3 does not conduct its business in accord with law.
- 4 3. The issuer of such securities has made any fraudulent representations in any
- 5 prospectus or in any circular or other literature that has been distributed concerning
- 6 the issuer or its securities.
- 7 4. The issuer of such securities has refused to permit an examination into its affairs
- 8 as provided in this section or has failed to furnish the commissioner any further
- 9 information required pursuant to this section.
- 10 5. Securities registered by description were not entitled to registration by description.
- 11 6. ~~No~~ An action may not be brought under this section by the commissioner after ten
- 12 years from the date of the alleged violation.

13 If the commissioner has reasonable grounds to believe that the registration of any

14 securities registered under this chapter should be revoked upon any ground specified in this

15 section, the commissioner or the commissioner's agent may conduct an examination into the

16 affairs of the issuer of such securities; provided, that the commissioner or the commissioner's

17 agent may conduct such an examination only if the information sought by such examination

18 could not be obtained from other readily available sources. In making any such examination,

19 the commissioner or the commissioner's agent ~~shall have~~ has access to and may compel the

20 production of all the books and papers of an issuer and may administer oaths to and examine

21 the officers and any employees of such issuer as to ~~its~~ the issuer's business and affairs. ~~They~~

22 The commissioner or the commissioner's agent may also require a balance sheet exhibiting the

23 assets and liabilities of any such issuer or the issuer's income statement, or both, to be certified

24 to by a certified public accountant. Whenever the commissioner may deem it necessary in

25 connection with any such examination, the commissioner may also require such balance sheet

26 or income statement, or both, to be made more specific in such particulars as the commissioner

27 shall point out or to be brought down to the latest practicable date. Such examination shall be

28 made at the office of the ~~commissioner~~ division, unless the issuer or a registered dealer

29 requests that the examination be made at some other place, in which case the person making

30 such request may be required by the commissioner to advance sufficient funds to pay the

31 actual expenses of such investigation.

1 If the commissioner has reasonable grounds to believe that the registration of any
2 securities under this chapter should be revoked on any ground specified in this section, the
3 commissioner may enter an order suspending the registration of such securities pending an
4 examination into the affairs of the issuer of such securities or pending a hearing or opportunity
5 for hearing as provided in section 10-04-12; provided, that no such suspension order ~~shall be~~ is
6 effective for more than thirty days and such an order, if not withdrawn by the commissioner
7 within thirty days, ~~shall automatically terminate~~ terminates thirty days after the date of its
8 issuance. Such suspension order ~~shall~~ must state specifically the grounds for its issuance.
9 Upon the entry of an order suspending the registration of any securities or of an order
10 withdrawing a suspension order previously issued, the commissioner shall send a copy of such
11 order to the issuer of such securities.

12 If the commissioner finds, after a hearing or opportunity for hearing as provided in
13 section 10-04-12, that there are grounds for revoking the registration of certain securities, the
14 commissioner may enter in the register of securities an order revoking the registration of such
15 securities. Such order ~~shall~~ must state specifically the grounds for its issuance. Upon the entry
16 of an order revoking the registration of securities, the commissioner shall send a copy of such
17 order to the issuer of such securities. ~~No~~ An order revoking the registration of securities ~~shall~~
18 does not invalidate any sale of such securities made ~~prior to~~ before the entry of such order.

19 **SECTION 58. AMENDMENT.** Section 10-04-10 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **10-04-10. Registration of dealers, agents, investment advisers, and investment**
22 **adviser representatives - Notice filings by federal covered advisers.** A dealer or an agent
23 may not offer for sale or sell any securities within or from this state, except in transactions
24 exempt under section 10-04-06, unless registered as a dealer or an agent ~~pursuant to~~ under
25 the provisions of this section.

26 1. ~~Dealers.~~ Application for registration as a dealer may be made by any person
27 eighteen years of age or older. Such application for registration must be made in
28 writing or electronically in a form prescribed by the commissioner, must be signed
29 by the applicant, duly verified by oath, must be filed in the office of the
30 ~~commissioner~~ division, and must contain information the commissioner determines
31 to be necessary concerning the applicant.

1 The commissioner may also require such additional information relating to the
2 applicant and as to the previous history, record, or association of the applicant, its
3 officers, directors, employees, members, partners, managers, or trustees as the
4 commissioner deems necessary to establish whether or not the applicant should
5 be registered as a dealer under the provisions of this law.

6 There must be filed with such application a written consent to the service of
7 process upon the commissioner in actions against such dealer, conforming to the
8 requirements of section 10-04-14.

9 When an applicant has fully complied with the provisions of this subsection,
10 the commissioner may register such applicant as a dealer unless the commissioner
11 finds that the applicant is not of good business reputation, or is not solvent, or the
12 applicant's designees do not appear qualified by training, examination, or
13 experience to act on behalf of a dealer in securities.

14 Except as prohibited by the Securities Exchange Act of 1934, the
15 commissioner may require an indemnity bond running to the state of North Dakota
16 conditioned for the faithful compliance by the dealer and the dealer's agents with
17 all the provisions of this law and for the faithful performance and payment of all
18 obligations of the dealer and the dealer's agents.

19 The bond must be of such type as may be approved by the commissioner and
20 must be in such amount as the commissioner deems necessary to protect
21 purchasers. Any such bond must have as surety thereon a surety company
22 authorized to do business in this state. When the commissioner has registered an
23 applicant as a dealer, the commissioner shall notify the applicant of such
24 registration.

- 25 2. ~~Agent.~~ Application for registration as an agent may be made by any individual
26 eighteen years of age or older. Such application for registration must be made in
27 writing or electronically in a form prescribed by the commissioner, must be signed
28 by the applicant and by the registered dealer or issuer employing or proposing to
29 employ such applicant, duly verified by oath, must be filed in the office of the
30 ~~commissioner~~ division, and must contain information the commissioner determines
31 to be necessary concerning the applicant.

1 The commissioner shall require as a condition of registration that the applicant
2 pass a written examination as evidence of knowledge of the securities business;
3 provided, that not more than two officers or managers of an issuer may be
4 registered as an agent for a particular original offering of the issuer's securities
5 without being required to pass such written examination; and provided, further, that
6 no such officer or manager may again register within three years as such agent for
7 this or any other issuer without passing the written examination.

8 The commissioner may also require such additional information as to the
9 applicant's previous business experience as the commissioner deems necessary
10 to determine whether or not the applicant should be registered as an agent under
11 the provisions of this law. If an agent proposes to be self-employed, the agent
12 shall specifically state the particular security or securities the agent proposes to sell
13 in this state in the application, and if said security or securities are exempt under
14 section 10-04-05 or 10-04-06, or have been registered by description under section
15 10-04-07, or have been registered by announcement under section 10-04-07.1, or
16 have been registered by qualification under section 10-04-08, then the
17 commissioner may require that said self-employed agent file an indemnity bond
18 running to the state of North Dakota conditioned for the faithful compliance by said
19 self-employed agent with all the applicable provisions of this chapter and for the
20 faithful performance and payment of all obligations hereunder. The bond must be
21 in a form approved and in the amount required by the commissioner.

22 When an applicant has fully complied with the provisions of this subsection,
23 the commissioner may register such applicant as an agent unless the
24 commissioner finds that such applicant is not of good business reputation, or that
25 the dealer named on the application is not a registered dealer. When the
26 commissioner has registered an applicant as an agent, the commissioner shall
27 immediately notify the dealer of such registration.

28 Every registered dealer or issuer shall promptly notify the commissioner of the
29 termination of the employment by the dealer or issuer of a registered agent.

30 3. ~~Investment advisers.~~

- 1 a. It is unlawful for any person to transact business in this state as an investment
2 adviser unless:
- 3 (1) The person is registered under this chapter;
- 4 (2) The person's only clients in this state are investment companies as
5 defined in the Investment Company Act of 1940, other investment
6 advisers, federal covered advisers, dealers, banks, trust companies,
7 savings and loan associations, insurance companies, employee benefit
8 plans with assets of not less than one million dollars, and governmental
9 agencies or instrumentalities, whether acting for themselves or as
10 trustees with investment control, or other institutional investors as are
11 designated by rule or order of the commissioner; or
- 12 (3) Such person is registered either under the laws of the state where its
13 principal place of business is located or with the securities and
14 exchange commission, if the investment adviser has no place of
15 business in this state and during the preceding twelve-month period has
16 had not more than six clients, other than those specified in paragraph 2,
17 who are residents of this state.
- 18 b. Application for registration as an investment adviser may be made by any
19 person eighteen years of age or older. ~~Such~~ The application for registration
20 must be made in writing or electronically in a form prescribed by the
21 commissioner, must be signed by the applicant, duly verified by oath, must be
22 filed in the office of the ~~commissioner~~ division, and must contain information
23 the commissioner determines to be necessary concerning the applicant.
- 24 The commissioner may also require such additional information relating to the
25 applicant and as to the previous history, record, or association of the applicant, its
26 officers, directors, employees, members, partners, managers, or trustees, as the
27 commissioner deems necessary to establish whether or not the applicant should
28 be registered as an investment adviser under the provisions of this chapter.
- 29 Except as prohibited by the Investment Advisers Act of 1940, the
30 commissioner may require an indemnity bond running to the state of North Dakota
31 conditioned for the faithful compliance by the investment adviser and the

1 investment adviser's representatives with all the provisions of this law and for the
2 faithful performance and payment of all obligations of the investment adviser and
3 the investment adviser's representatives. The bond must be of such type as may
4 be approved by the commissioner and must be in such amount as the
5 commissioner deems necessary to protect persons in this state. Any such bond
6 must have as surety thereon a surety company authorized to do business in this
7 state.

8 The commissioner may by rule or order provide for an examination to be
9 taken by any class of or all applicants, as well as persons who represent or will
10 represent an investment adviser in doing any of the acts which make the person an
11 investment adviser.

12 When an applicant has fully complied with the provisions of this subsection,
13 the commissioner may register such applicant as an investment adviser unless the
14 commissioner finds that the applicant is not of good business reputation or is not
15 solvent.

16 A registrant as investment adviser shall notify the commissioner of any
17 change of address.

18 4. ~~Federal covered adviser.~~ Except with respect to a federal covered adviser whose
19 clients are those described in paragraph 2 of subdivision a of subsection 3 or who
20 meets the criteria of paragraph 3 of subdivision a of subsection 3, it ~~shall be~~ is
21 unlawful for a person to transact business in this state as a federal covered adviser
22 unless such person has made a notice filing with the commissioner, in writing or
23 electronically, consisting of a copy of those documents that have been filed with
24 the securities and exchange commission as the commissioner may require by rule
25 or otherwise and the prescribed notice filing fee.

26 A notice filing is effective from receipt until the following December thirty-first.
27 It may be renewed by filing with the commissioner, ~~prior to~~ before expiration, those
28 documents filed with the securities and exchange commission as the commissioner
29 may require by rule or otherwise, with the notice filing renewal fee.

30 If the information contained in any document filed with the commissioner is or
31 becomes inaccurate or incomplete in any material respect, the federal covered

1 adviser shall file an amendment with the commissioner whenever such amendment
2 is filed with the securities and exchange commission.

3 A notice filing may be terminated by a federal covered adviser by filing a
4 notice of termination with the commissioner.

5 5. ~~Investment adviser representatives.~~ Application for registration as an investment
6 adviser representative may be made by any person eighteen years of age or older.
7 The application for registration must be submitted in writing or electronically in a
8 form prescribed by the commissioner, be signed by the applicant and if applicable,
9 by the investment adviser employing or proposing to employ the applicant, be duly
10 verified by oath, be filed in the office of the ~~commissioner~~ division, and contain
11 information the commissioner determines to be necessary concerning the
12 applicant.

13 When an applicant has fully complied with the provisions of this subsection,
14 the commissioner may register the applicant as an investment adviser
15 representative unless the commissioner finds that the applicant is not of good
16 business reputation; that the investment adviser named in the application is not a
17 registered investment adviser; or the federal covered adviser named in the
18 application has not made a notice filing with the commissioner. When the
19 commissioner has registered an applicant as an investment adviser representative,
20 the commissioner shall immediately notify the investment adviser or the federal
21 covered adviser, as applicable, of such registration.

22 Every registered investment adviser shall promptly notify the commissioner of
23 the termination of the employment by the adviser of a registered investment
24 adviser representative. Every registered investment adviser representative
25 employed by a federal covered adviser or the federal covered adviser shall
26 promptly notify the commissioner of the termination of such employment. The
27 registration of the investment adviser representative is automatically suspended
28 from the time of termination of employment until such time as the representative is
29 registered by the commissioner as a representative of another investment adviser
30 or federal covered adviser.

- 1 The commissioner may by rule or order provide for an examination to be
2 taken by the applicant.
- 3 6. ~~Refusal of registration.~~ If the commissioner has reason to believe there are
4 grounds to refuse the approval of any application under this section, the
5 commissioner may, by order, summarily postpone the approval of any application
6 made under this section. If, after affording an applicant a hearing or an opportunity
7 for a hearing as provided in section 10-04-12, the commissioner finds that there is
8 sufficient ground to refuse to register such applicant as provided in this section, the
9 commissioner shall enter an order refusing to register such applicant. Such order
10 ~~shall~~ must state specifically the grounds for its issuance. A copy of such order
11 must be mailed to the applicant at the applicant's business address, and if the
12 application is for registration as an agent, to the registered dealer or issuer or if the
13 application is for registration as an investment adviser representative to the
14 investment adviser or federal covered adviser who proposed to employ such
15 applicant. If the commissioner finds that an applicant has been guilty of any act or
16 omission ~~which~~ that would constitute a sufficient ground for revocation of a
17 dealer's, an agent's, an investment adviser's, or an investment adviser
18 representative's registration under section 10-04-11, such act or omission may
19 constitute a sufficient ground for a finding by the commissioner that such applicant
20 is not of good business reputation.
- 21 7. ~~Record and renewal of registrations.~~ The names and addresses of all persons
22 who have been registered as dealers, agents, investment advisers, or investment
23 adviser representatives, and all orders with respect thereto, and the names and
24 addresses of all federal covered advisers who have made a notice filing must be
25 recorded in a register of dealers, agents, investment advisers, federal covered
26 advisers, and investment adviser representatives in the office of the ~~commissioner~~
27 division. Every registration under this section expires on May first of each year,
28 except for the registration of an investment adviser and investment adviser
29 representative which ~~will expire~~ expires on December thirty-first of each year,
30 unless renewed. The commissioner may by order provide for expirations and
31 renewals, including dates, forms, and procedures, adjust registration and notice

1 filing fees to correspond with expiration dates, and do any other thing ~~which that~~ that
2 may be necessary or convenient in order to participate in a central registration
3 depository or any similar arrangement designed to promote uniformity, to ease
4 regulatory burdens, or to encourage cooperation with other states, the securities
5 and exchange commission, or any registered national securities association or
6 exchange.

7 8. ~~Fees.~~ The fee, which must accompany the application, for registration, transfer, or
8 notice filing, and for each annual renewal thereof is:

- | | |
|--|----------|
| 9 a. For each dealer | \$200.00 |
| 10 b. For each agent | \$60.00 |
| 11 c. For each investment adviser or federal covered adviser | \$100.00 |
| 12 d. For each investment adviser representative | \$50.00 |

13 An application to register as a dealer, an agent, an investment adviser, or an investment
14 adviser representative may, with the consent of the commissioner, be withdrawn upon written
15 application, but in no event may any registration fees be returned.

16 **SECTION 59. AMENDMENT.** Subdivision c of subsection 2 of section 12.1-06.1-01 of
17 the North Dakota Century Code is amended and reenacted as follows:

- 18 c. "Financial institution" means any bank, trust company, savings and loan
19 association, credit union, or money lender under the jurisdiction of the ~~state~~
20 ~~department~~ division of financial institutions ~~or its commissioner, or the state~~
21 ~~banking board, or the state credit union board.~~

22 **SECTION 60.** A new section to chapter 26.1-01 of the North Dakota Century Code is
23 created and enacted as follows:

24 **Division of insurance to be substituted for insurance department.** Wherever the
25 term "North Dakota insurance department" or any derivative of the term is used in this code, the
26 term "division of insurance" must be substituted therefor.

27 **SECTION 61.** A new chapter to title 26.1 of the North Dakota Century Code is created
28 and enacted as follows:

29 **Definitions.** As used in this title, unless the context or subject matter otherwise
30 requires:

- 31 1. "Commissioner" means the insurance commissioner of this state.

- 1 2. "Department" means the department of finance services.
2 3. "Directors" means the director of financial institutions, director of securities, and
3 director of insurance.
4 4. "Divisions" means the division of financial institutions, division of securities, and
5 division of insurance.

6 **Department of finance services under direction of insurance commissioner -**

7 **Transition.**

- 8 1. There is established a department of finance services under the direction of the
9 commissioner. All records, materials, supplies, and equipment used by the
10 department of financial institutions, office of the securities commissioner, the office
11 of the insurance commissioner, the state banking board, and the state credit union
12 board are transferred to the department.
13 2. Any documents executed by or through the department of financial institutions,
14 office of the securities commissioner, or office of the insurance commissioner,
15 before the effective date of this Act, are transferred to the commissioner, and
16 remain effective as though executed by the insurance commissioner.
17 3. Each of the directors must be paid through funds appropriated to the commissioner
18 by the legislative assembly. The commissioner and the commissioner's
19 employees, including the directors and employees of any of the divisions, are also
20 entitled to travel expenses necessary and actually in the performance of their
21 duties.

22 **Appointment of directors - Divisions.**

- 23 1. The department of finance services must include a division of financial institutions,
24 division of securities, and division of insurance. The commissioner shall appoint a
25 director of financial institutions, director of securities, and director of insurance,
26 who shall discharge the duties assigned to the commissioner. Each director shall
27 hold office for the term of the commissioner who makes the appointment.
28 2. The director of financial institutions must be a skilled accountant and may not be
29 an incumbent of any other public office in the state, or in any county, municipality,
30 or public institution thereof, and may not own, hold, or control any stocks, capital,
31 or bonds, or hold the office of trustee, assignee, officer, agent, or employee of any

1 financial institution under the director's jurisdiction, or of any corporation engaged
2 in the business of guaranteeing or ensuring the fidelity or faithful performance of
3 the duties or the solvency of public officers or of public depositories.

4 3. The director of securities must be skilled in securities and may not be an
5 incumbent of any other public office in the state. The director of securities may not
6 own or control any security required to be registered under chapter 10-04 and may
7 not be an officer, a director, or an employee of any dealer, salesman, investment
8 adviser, or investment adviser representative required to be registered under
9 chapter 10-04.

10 4. The directors serve at the pleasure of the commissioner and the commissioner
11 may remove from office any of the directors who violate or fail to discharge
12 faithfully the duties of office or who become disqualified under the provisions of this
13 section.

14 **Duties of commissioner - Delegation of authority - Rulemaking.**

15 1. The commissioner shall supervise, control, and administer the department of
16 finance services. The commissioner shall oversee the administration of all laws
17 subject to the authority of the director of financial institutions, the director of
18 securities, and the director of insurance. The commissioner may establish
19 procedures and policies as necessary to implement and otherwise carry out the
20 duties of the commissioner and the duties of the directors. The commissioner may
21 delegate duties of administration of the divisions to corresponding directors. A duty
22 of administration of a division is assumed to be delegated to the corresponding
23 director unless the law otherwise provides or unless the commissioner adopts a
24 rule to the contrary.

25 2. The commissioner may adopt rules necessary to carry out the duties of the
26 commissioner. The commissioner may adopt rules in accordance with any
27 authority granted to a director. All rulemaking authority that is granted to any of the
28 directors is vested solely in the commissioner. All rules of the department of
29 financial institutions, securities commissioner, and insurance commissioner in
30 existence on the day before the effective date of this Act convert to rules of the
31 commissioner.

1 3. Any rulemaking or any administrative proceeding conducted by the commissioner
2 is subject to chapter 28-32 unless otherwise specifically exempted from that
3 chapter, and any order or decision of the commissioner, unless otherwise
4 specifically provided for by law, is subject to review or appeal in the manner
5 provided by chapter 28-32.

6 4. The commissioner shall execute the commissioner's duties within the limits of the
7 funds appropriated to the commissioner by the legislative assembly.

8 **Salary of commissioner - Seal.** The annual salary of the commissioner is sixty-eight
9 thousand eighteen dollars. The commissioner must have an official seal and shall keep an
10 impression of the seal on file in the office of the secretary of state.

11 **SECTION 62. AMENDMENT.** Section 26.1-01-01 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **26.1-01-01. ~~Commissioner defined~~ Definitions.** Unless the context or subject matter
14 otherwise requires, in this title ~~the word "commissioner" means the insurance commissioner.;~~

15 1. "Commissioner" means the insurance commissioner of this state.

16 2. "Department" means the department of finance services.

17 3. "Director" means the director of insurance.

18 4. "Division" means the division of insurance.

19 **SECTION 63. AMENDMENT.** Section 26.1-01-02 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **26.1-01-02. ~~Commissioner—Seal—~~ Employment of deputy and assistants.** The
22 ~~commissioner shall have an official seal and shall keep an impression of the seal on file in the~~
23 ~~office of the secretary of state. The commissioner shall employ a deputy and other competent~~
24 ~~officials and clerks to discharge the duties assigned by the commissioner. When the~~
25 ~~commissioner~~ director may employ a deputy. If the director is absent temporarily from the
26 office, the deputy ~~commissioner~~ may sign the ~~commissioner's~~ director's name and perform any
27 other statutory duties pertaining to the office.

28 **SECTION 64. AMENDMENT.** Section 26.1-01-07 of the North Dakota Century Code is
29 amended and reenacted as follows:

30 **26.1-01-07. Fees chargeable by commissioner.** The commissioner shall charge and
31 collect the following fees:

Fifty-eighth
Legislative Assembly

- 1 1. For filing articles of incorporation, or copies, or amendments thereof, twenty-five
2 dollars.
- 3 2. For each original certificate of authority issued upon admittance, one hundred
4 dollars and for renewal of certificate of authority, amendment to certificate of
5 authority, or certified copy thereof, fifty dollars.
- 6 3. For issuing an annual reciprocal exchange license, the same fees as those
7 applicable to the issuance of a certificate of authority in subsection 2.
- 8 4. For filing an annual report of a fraternal benefit society, and issuing a license or
9 permit to the society, and for each renewal thereof, twenty-five dollars.
- 10 5. For filing bylaws or amendments thereof, ten dollars.
- 11 6. For filing of articles of merger, or copies thereof, thirty dollars.
- 12 7. For receiving the service of process as attorney, whether the commissioner is
13 served with the process or admits service thereon, ten dollars.
- 14 8. For filing of power of attorney by nonadmitted insurer for conduct of business in
15 compliance with surplus lines laws of this state, ten dollars.
- 16 9. For filing an annual statement, twenty-five dollars.
- 17 10. For filing the abstract of the annual statement of an insurance company for
18 publication, thirty dollars.
- 19 11. For an official examination, the expenses of the examination at the rate adopted by
20 the ~~department~~ commissioner. The rates must be reasonably related to the direct
21 and indirect costs of the examination, including actual travel expenses, including
22 hotel and other living expenses, compensation of the examiner and other persons
23 making the examination, and necessary attendant administrative costs of the
24 department directly related to the examination and must be paid by the examined
25 insurer together with compensation upon presentation by the department to the
26 insurer of a detailed account of the charges and expenses after a detailed
27 statement has been filed by the examiner and approved by the department.
- 28 12. For issuing a certificate to a domestic insurance company showing a compliance
29 with the compulsory reserve provisions of this title and the maintenance of proper
30 security deposits and for any renewal of the certificate, ten dollars.

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Legislative Assembly

- 1 13. For a written licensee's examination administered by the office of the ~~commissioner~~
2 division, with the examination not to exceed two lines of insurance at any one
3 sitting, twenty dollars.
- 4 14. For a written licensee's examination not administered by the office of the
5 ~~commissioner~~ division under a contract with a testing service, the actual cost of the
6 examination, subject to approval of the commissioner, which must be paid to the
7 testing service.
- 8 15. For issuing and each annual renewal of a surplus lines insurance producer's or
9 insurance consultant's license, ten dollars.
- 10 16. For issuing an insurance producer's license, one hundred dollars.
- 11 17. For issuing a duplicate of any license or registration issued under this title, ten
12 dollars.
- 13 18. For issuing and each annual renewal of a license to a resident agent for the
14 attorney for a reciprocal exchange, ten dollars.
- 15 19. For filing of any miscellaneous documents or papers, including documents of
16 admission and those filed annually upon license renewal, ten dollars each.
- 17 20. For a copy of any paper filed in the ~~commissioner's~~ office of the division, twenty
18 cents per folio.
- 19 21. For affixing the commissioner's official seal on a copy of any paper filed in the
20 office and certifying the copy, ten dollars.
- 21 22. For each insurance company appointment and renewal of an appointment of an
22 insurance producer, ten dollars.
- 23 23. For each company application for admission, five hundred dollars, except
24 applications for admission for county mutual, fraternal benefit, and surplus lines
25 companies must be one hundred dollars.
- 26 24. For issuing a license and each annual renewal of a license to an insurance
27 premium finance company, one hundred dollars.
- 28 25. For examining or investigating an insurance premium finance company, the actual
29 expense and per diem incurred; but the per diem charge may not exceed fifty
30 dollars.

1 26. For issuing and each annual renewal of a license to an advisory organization, fifty
2 dollars.

3 Nonprofit health service corporations and health maintenance organizations are subject
4 to the same fees as any other insurance company. County mutual insurance companies and
5 benevolent societies are liable only for the fees mentioned in subsections 2, 10, 11, 16, 19, 20,
6 and 21.

7 However, the commissioner may, after public notice and hearing, increase the fees
8 authorized by this section for any year if it is determined necessary to generate the revenue
9 appropriated by the legislative assembly from the insurance regulatory trust fund to fund
10 budgeted operations for the division of insurance ~~department~~. The insurance commissioner
11 may not implement a fee increase ~~pursuant to~~ under this section to enhance or in any manner
12 add funds to the legislative appropriation for the ~~insurance~~ department.

13 **SECTION 65. AMENDMENT.** Section 26.1-01-07.1 of the North Dakota Century Code
14 is amended and reenacted as follows:

15 **26.1-01-07.1. Insurance regulatory trust fund established.**

16 1. There is hereby created a trust fund designated "insurance regulatory trust fund".

17 The following amounts must be deposited in the insurance regulatory trust fund:

- 18 a. All sums received under section 26.1-01-07.
19 b. All sums received under section 26.1-01-07.2 from the insurance regulatory
20 trust fund investments.
21 c. All retaliatory fees imposed upon persons by the ~~insurance department~~
22 division as authorized by law.
23 d. All administrative penalties, fines, and fees collected by the commissioner
24 from any person subject to this title.
25 e. Any other amounts provided by legislative appropriation.

26 2. The moneys so received and deposited in the insurance regulatory trust fund are
27 reserved for use by the division of insurance ~~department~~ to defray the expenses of
28 the ~~department~~ division in the discharge of its administrative and regulatory powers
29 and duties as prescribed by law subject to the applicable laws relating to the
30 appropriations of state funds and to the deposit and expenditure of state moneys.

1 The insurance ~~department~~ commissioner is responsible for the proper expenditure
2 of these moneys as provided by law.

3 3. Except as otherwise provided by law, at the end of each fiscal year, the state
4 treasurer shall transfer, after all fiscal year expenses have been paid, any cash
5 balance remaining in the insurance regulatory trust fund that exceeds one million
6 dollars to the general fund.

7 **SECTION 66. AMENDMENT.** Section 26.1-01-07.2 of the North Dakota Century Code
8 is amended and reenacted as follows:

9 **26.1-01-07.2. Insurance regulatory trust fund investment.**

10 1. ~~It is the responsibility of the insurance department, charged with the administration~~
11 ~~of the insurance regulatory trust fund, to~~ The commissioner shall make such
12 moneys in the insurance regulatory trust fund available for investment as fully as is
13 consistent with the cash requirements of the fund and to authorize investment of
14 such moneys by the state investment board.

15 2. The ~~insurance department~~ commissioner monthly shall ~~monthly~~ notify the state
16 investment board of the amount available for investment, and the moneys must be
17 invested by the investing authority according to the laws relating to state
18 investments. Such notification must include the name and number of the fund for
19 which the investments are to be made and the life of the investment if the principal
20 sum is to be required for meeting obligations.

21 3. All earnings derived from such investments must be paid into the insurance
22 regulatory trust fund.

23 **SECTION 67. AMENDMENT.** Section 26.1-06-12 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **26.1-06-12. Securities laws.** This chapter does not limit or modify ~~in any way any~~
26 ~~responsibility, authority, power, or jurisdiction of the securities commissioner or of the securities~~
27 laws of this state.

28 **SECTION 68. AMENDMENT.** Subsection 3 of section 43-10.1-01 of the North Dakota
29 Century Code is amended and reenacted as follows:

30 3. "Commissioner" means the ~~securities~~ insurance commissioner.

1 **SECTION 69. AMENDMENT.** Subsection 4 of section 51-19-02 of the North Dakota
2 Century Code is amended and reenacted as follows:

3 4. "Commissioner" means the ~~securities~~ insurance commissioner.

4 **SECTION 70. AMENDMENT.** Subsection 3 of section 51-23-02 of the North Dakota
5 Century Code is amended and reenacted as follows:

6 3. "Commissioner" means the ~~securities~~ insurance commissioner of this state.

7 **SECTION 71. AMENDMENT.** Subsection 1 of section 54-06-04 of the North Dakota
8 Century Code is amended and reenacted as follows:

9 1. The following executive and administrative officers and departments shall submit to
10 the governor and the secretary of state reports covering their operations for the two
11 preceding fiscal years, except as otherwise provided by law, not later than the first
12 day of December each year after the regular session of the legislative assembly:

- 13 a. Secretary of state.
- 14 b. State auditor.
- 15 c. Insurance commissioner.
- 16 d. Attorney general.
- 17 e. Agriculture commissioner.
- 18 f. Superintendent of public instruction.
- 19 g. State tax commissioner.
- 20 h. Public service commission.
- 21 i. Department of corrections and rehabilitation.
- 22 j. Department of transportation.
- 23 k. State department of health.
- 24 l. Department of human services.
- 25 m. Workers compensation bureau.
- 26 n. Office of management and budget.
- 27 o. State treasurer.
- 28 p. Labor commissioner.
- 29 q. ~~Department of financial institutions.~~
- 30 r. Game and fish department.
- 31 s. r. Industrial commission.

1 ~~t.~~ s. Job service North Dakota.

2 ~~u.~~ t. Board of university and school lands.

3 **SECTION 72. AMENDMENT.** Subsection 1 of section 54-07-01.2 of the North Dakota
4 Century Code is amended and reenacted as follows:

5 1. Notwithstanding sections 2-05-01, 4-18.1-04, 4-27-04, ~~6-04-03~~, 6-09-02.1,
6 12-55.1-02, 12-59-01, 15-39.1-05.1, 15.1-01-01, 15.1-13-02, 20.1-02-23, 23-01-02,
7 23-25-02, 36-01-01, 37-18.1-01, 50-06-05.6, 50-06.1-16, 54-34.3-10, 54-54-02,
8 55-01-01, 55-06-01, 61-02-04, and 61-28-03, all members of the following boards
9 and commissions must, subject to the limitations of this section, be considered to
10 have resigned from such boards and commissions effective January first of the first
11 year of each four-year term of the governor:

12 a. The aeronautics commission.

13 b. The milk marketing board.

14 c. The dairy promotion commission.

15 d. ~~The state banking board.~~

16 e. ~~The state credit union board.~~

17 f. The advisory board of directors to the Bank of North Dakota.

18 ~~g.~~ e. The pardon advisory board.

19 ~~h.~~ f. The state parole board.

20 i. g. The state board of public school education.

21 j. h. The education standards and practices board and the administrator's
22 professional practices board.

23 ~~k.~~ i. The board of trustees for the teachers' fund for retirement.

24 l. j. The state game and fish advisory board.

25 ~~m.~~ k. The health council.

26 n. l. The air pollution control advisory council.

27 ~~o.~~ m. The board of animal health.

28 p. n. The administrative committee on veterans' affairs.

29 ~~q.~~ o. The committee on aging.

30 r. p. The committee on employment of people with disabilities.

31 s. q. The commission on the status of women.

1 ~~t~~ r. The North Dakota council on the arts.

2 ~~u~~ s. The state historical board.

3 ~~v~~ t. The Yellowstone-Missouri Rivers confluence commission.

4 ~~w~~ u. The state water commission.

5 ~~x~~ v. The state water pollution control board.

6 **SECTION 73. REPEAL.** Sections 6-01-08, 6-01-11, and 26.1-01-09 of the North
7 Dakota Century Code are repealed.

8 **SECTION 74. LEGISLATIVE COUNCIL CORRECTION OF STATUTORY**

9 **REFERENCES.** The legislative council may replace references to the "department of financial
10 institutions", "commissioner of financial institutions", "securities commissioner", "office of the
11 securities commissioner", and "insurance department" with references to the "division of
12 financial institutions", "insurance commissioner", "director of financial institutions", "director of
13 securities", "division of securities", "director of insurance", "department of finance services", and
14 "division of insurance", or any variation of these terms as appropriate, in any measure enacted
15 by the legislative assembly.

16 **SECTION 75. APPROPRIATION - TRANSFER.** As of the effective date of this Act, the
17 department of financial services, the securities commissioner, and the department of the
18 insurance commissioner are abolished and any funds appropriated to these agencies by the
19 fifty-seventh legislative assembly and the fifty-eighth legislative assembly are appropriated and
20 transferred to the department of finance services.