

Sixty-eighth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1038

Introduced by

Legislative Management

(Judiciary Committee)

1 A BILL for an Act to create and enact a new subdivision to subsection 1 of section 27-20.2-21 of  
2 the North Dakota Century Code, relating to technical corrections and improper, inaccurate,  
3 redundant, missing, or obsolete references; and to amend and reenact subsection 9 of section  
4 12.1-31-01.2, subsection 8 of section 12.1-31.2-01, subsection 1 of section 15-08-19.2,  
5 subsection 5 of section 15-08-19.3, section 15-11-37, paragraph 1 of subdivision a of  
6 subsection 2 of section 19-24.1-01, paragraph 1 of subdivision b of subsection 2 of section  
7 19-24.1-01, subsection 8 of section 23-09-01, subsections 24 and 34 of section 26.1-05-19,  
8 subsection 7 of section 26.1-17-33.1, subsection 6 of section 32-19-41, sections 37-01-16 and  
9 39-06-32, subsection 4 of section 39-06-33, subdivision i of subsection 2 of section 39-06-49,  
10 subsection 5 of section 39-06.1-11, sections 40-34-13 and 40-35-02, subsection 11 of section  
11 43-23-06.1, sections 54-21.3-05, 57-15-06, and 57-15-08, and subsection 6 of section  
12 61-32-03.1 of the North Dakota Century Code, relating to technical corrections and improper,  
13 inaccurate, redundant, missing, or obsolete references; and to provide a penalty.

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

15 **SECTION 1. AMENDMENT.** Subsection 9 of section 12.1-31-01.2 of the North Dakota  
16 Century Code is amended and reenacted as follows:

17 9. If the respondent knows of an order issued under subsections 4 and 5, or  
18 subsection 6, violation of the order is a class A misdemeanor and also constitutes  
19 contempt of court. A second or subsequent violation of a protection order is a class C  
20 felony. If the existence of an order issued under subsection ~~34~~, or subsections ~~45~~ and  
21 ~~56~~ can be verified by a peace officer, the officer, without a warrant, may arrest and  
22 take into custody an individual whom the peace officer has probable cause to believe  
23 has violated the order.

1       **SECTION 2. AMENDMENT.** Subsection 8 of section 12.1-31.2-01 of the North Dakota  
2 Century Code is amended and reenacted as follows:

3       8. If the respondent knows of an order issued under subsection 4 or 5, violation of the  
4 order is a class A misdemeanor. If the existence of an order issued under  
5 subsection ~~34~~ or ~~45~~ can be verified by a peace officer, the officer, without a warrant,  
6 may arrest and take into custody an individual whom the peace officer has probable  
7 cause to believe has violated the order.

8       **SECTION 3. AMENDMENT.** Subsection 1 of section 15-08-19.2 of the North Dakota  
9 Century Code is amended and reenacted as follows:

- 10       1. Nonvehicular public access to leased and unleased trust lands is allowed if in the best  
11 interests of the trusts, unless:
- 12       a. Specifically prohibited by the commissioner of university and school lands; or
  - 13       b. A lessee of any lands under the control of the board of university and school  
14 lands posts the land with signage issued by the department of trust lands, which:  
15           (1) Requires notification to the lessee before entry by the public; or  
16           (2) Closes the trust lands to all public access.

17       **SECTION 4. AMENDMENT.** Subsection 5 of section 15-08-19.3 of the North Dakota  
18 Century Code is amended and reenacted as follows:

19       5. When hunting under a special permit issued by the director of the game and fish  
20 department to shoot from a stationary vehicle and with written permission from the  
21 lessee and commissioner of university and school lands.

22       **SECTION 5. AMENDMENT.** Section 15-11-37 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24       **15-11-37. Acceptance of gifts by dean of medical schooluniversity of North Dakota**  
25 **school of medicine and health sciences - Continuing appropriation.**

26       Notwithstanding any other provisions of law, the dean of the university of North Dakota  
27 ~~medical school~~ of medicine and health sciences may accept and receive gifts, grants, bequests,  
28 and donations that are hereby appropriated for use by the university of North Dakota ~~medical-~~  
29 ~~school~~ of medicine and health sciences.

30       **SECTION 6. AMENDMENT.** Paragraph 1 of subdivision a of subsection 2 of section  
31 19-24.1-01 of the North Dakota Century Code is amended and reenacted as follows:





1       **SECTION 13. AMENDMENT.** Subsection 6 of section 32-19-41 of the North Dakota  
2 Century Code is amended and reenacted as follows:

3           6. If the record title owner cannot be located, any remainder from the proceeds of a sale  
4           must be delivered to the administrator of the state abandoned property office in  
5           accordance with chapter ~~47-30-147-30.2~~.

6       **SECTION 14. AMENDMENT.** Section 37-01-16 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8       **37-01-16. Unlawful conversion of military property - Unlawful wearing of uniforms**  
9 **and devices indicating rank - Penalty.**

10       ~~AnyIt is a class B misdemeanor for a person who shallto:~~

- 11           1. Secretly sell, dispose of, offer for sale, purchase, retain after a demand made by a  
12           commissioned officer of the national guard, or in any manner pawn or pledge any  
13           arms, uniforms, equipment, or other military property issued under the provisions of  
14           this title; or
- 15           2. Wear any uniform or any device, strap, knot, or insignia of any design or character  
16           used as a designation of grade, rank, or office, prescribed by law, or by general  
17           regulation duly promulgated, for the use of the national guard, or any device, strap,  
18           knot, or insignia similar thereto, unless the person is a member of the army or navy of  
19           the United States or of the national guard of this or any other state, a member of an  
20           association wholly composed of soldiers who have been honorably discharged from  
21           the service of the United States, or a member of the order of sons of veterans;  
22 ~~is guilty of a class B misdemeanor.~~

23       **SECTION 15. AMENDMENT.** Section 39-06-32 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25       **39-06-32. Authority to suspend licenses.**

- 26           4. The director may suspend the operator's license of an individual, after hearing, upon  
27 proof by a fair preponderance of the evidence, that any of the following apply to the licensee:
- 28           ~~a.~~1. Commission of an offense for which mandatory revocation of license is required upon  
29           conviction.
- 30           ~~b.~~2. Incompetence to drive a motor vehicle.
- 31           ~~c.~~3. Unlawful or fraudulent use of an operator's license.

- 1     ~~d.4.~~ Refusal to submit to an implied consent chemical test on an Indian reservation or in  
2           another state. For purposes of this subsection, the specific requirements for  
3           establishing a refusal used on the Indian reservation or in the other state may not be  
4           considered, and photostatic copies of the records of the other jurisdiction's driver's  
5           licensing authority are sufficient evidence of the refusal whether those copies are  
6           certified. The suspension must be for the same length of time as the revocation in  
7           section 39-20-04. If the refusal arose out of an arrest or stop of an individual while  
8           operating a commercial motor vehicle, the period of suspension must be the same as  
9           the period of revocation provided in section 39-06.2-10.
- 10    ~~2.5.~~ Failure, as shown by the certificate of the court, to pay a fine or serve any other  
11           sentence as ordered by a court upon conviction for any criminal traffic offense.
- 12    ~~3.6.~~ Failure, as shown by the certificate of the court, to appear in court or post and forfeit  
13           bond after signing a promise to appear, if signing is required by law, in violation of  
14           section 39-06.1-04, willful violation of a written promise to appear in court, in violation  
15           of section 39-07-08, or violation of equivalent ordinances or laws in another  
16           jurisdiction. Upon resolution by the operator of the underlying cause for a suspension  
17           under this subsection, as shown by the certificate of the court, the director shall record  
18           the suspension separately on the driving record. This separate record is not available  
19           to the public.
- 20    ~~4.7.~~ An administrative decision on an Indian reservation or in another state that the  
21           licensee's privilege to drive on that Indian reservation or in that state is suspended or  
22           revoked because of a violation of that Indian reservation's or state's law forbidding  
23           motor vehicle operation with an alcohol concentration of at least eight one-hundredths  
24           of one percent by weight or, with respect to a person under twenty-one years of age,  
25           an alcohol concentration of at least two one-hundredths of one percent by weight, or  
26           because of a violation of that Indian reservation's or state's law forbidding the driving  
27           or being in actual physical control of a commercial motor vehicle while having an  
28           alcohol concentration of at least four one-hundredths of one percent by weight. The  
29           specific requirements for establishing the violation on the Indian reservation or in the  
30           other state may not be considered and certified copies of the records of the Indian  
31           reservation's or other state's driver's licensing authority are sufficient evidence of the

1 violation. The suspension must be for the same duration as the suspension in section  
2 39-20-04.1, if the violation does not involve a commercial motor vehicle. If the violation  
3 involves a commercial motor vehicle, the period of suspension must be the same as  
4 the period of suspension provided in section 39-06.2-10. For purposes of this section,  
5 originals, photostatic copies, or electronic transmissions of the records of the driver's  
6 licensing or other authority of the other jurisdiction are sufficient evidence whether they  
7 are certified copies.

8 ~~5.8.~~ Conviction of an offense under this title and it appears from the director's records that  
9 the offense contributed to causing an accident which resulted in death or serious  
10 personal injury or serious property damage. A suspension may not be imposed if the  
11 individual has been sanctioned for the same offense under section 39-06-31.

12 **SECTION 16. AMENDMENT.** Subsection 4 of section 39-06-33 of the North Dakota  
13 Century Code is amended and reenacted as follows:

- 14 4. If a suspension is ordered under ~~subdivision b~~ of subsection ~~42~~ of section 39-06-32,  
15 the notice must include a specific description of the conditions which led to the  
16 conclusion that the licensee is incompetent to drive a motor vehicle. If during the  
17 suspension those conditions dissipate, the licensee may request another hearing on  
18 the issue of competence to drive a motor vehicle. The hearing must be held in the  
19 manner required under subsections 2 and 3 for the original suspension.

20 **SECTION 17. AMENDMENT.** Subdivision i of subsection 2 of section 39-06-49 of the North  
21 Dakota Century Code is amended and reenacted as follows:

- 22 i. Reinstatement after suspension is fifty dollars unless the suspension was the  
23 result of a suspension under subsection 3, 4, or 6 of section 39-06-03 or  
24 ~~subdivision b~~ of subsection ~~42~~ of section 39-06-32, then the fee is twenty-five  
25 dollars, or unless the suspension was a result of a violation under section  
26 39-08-01 or chapter 39-20, then the fee is one hundred dollars.

27 **SECTION 18. AMENDMENT.** Subsection 5 of section 39-06.1-11 of the North Dakota  
28 Century Code is amended and reenacted as follows:

- 29 5. The director may not issue a temporary restricted license for a period of license  
30 revocation or suspension imposed under section 39-06-31. A temporary restricted  
31 license may be issued for suspensions ordered under subsection ~~47~~ of section

1           39-06-32 if it could have been issued had the suspension resulted from in-state  
2           conduct.

3           **SECTION 19. AMENDMENT.** Section 40-34-13 of the North Dakota Century Code is  
4           amended and reenacted as follows:

5           **40-34-13. Residue of money remaining after payment of bonds - Disposal.**

6           After the principal and interest on the bonds secured by a first mortgage or deed of trust on  
7           an improvement as provided in this chapter have been fully paid, as the governing body of the  
8           municipality or the respective governing bodies of the municipalities may direct by resolution,  
9           the revenues of such utility and improvement set apart for the payment of such bonds may be:

- 10          1.   Used for the repair, improvement, or extension of such utility or improvement;  
11          2.   Credited to the interest and sinking fund established for the retirement and payment of  
12              the general liability bonds; or  
13          3.   Transferred to the general fund;

14           ~~as the governing body of the municipality or the respective governing bodies of the~~  
15           ~~municipalities may direct by resolution.~~

16           **SECTION 20. AMENDMENT.** Section 40-35-02 of the North Dakota Century Code is  
17           amended and reenacted as follows:

18           **40-35-02. Undertaking defined.**

19           The term "undertaking", as used in this chapter, unless a different meaning clearly appears  
20           from the context, ~~means:~~

- 21          1.   Means systems, plants, works, instrumentalities, and properties used in  
22              revenue-producing undertakings, or any combination of two or more of such  
23              undertakings, which are used or useful in connection with:  
24          4.   a.   The obtaining of a water supply and the conservation, treatment, distribution, and  
25              disposal of water for public and private uses;  
26          2.   b.   The collection, treatment, and disposal of sewage, waste, and storm water;  
27          3.   c.   The generation, production, transmission, and distribution of natural, artificial, or  
28              mixed gas, or electric energy, for lighting, heating, and power for public and  
29              private uses;  
30          4.   d.   The operation of parking lots, trailer courts, and facilities for motor vehicles and  
31              house trailers;

- 1       5. e. The purchase, acquisition, or establishment, maintenance, and operation of a  
2               public transportation system;
- 3       6. f. The purchase, acquisition, construction, establishment, maintenance, and  
4               operation of an airport and the facilities and services in connection therewith; and
- 5       7. g. The purchase, acquisition, construction, maintenance, and operation of a  
6               hospital;

7 ~~together with and~~

- 8       2. Includes all parts of any such undertaking and all appurtenances ~~thereto~~ to the  
9               undertakings, including lands, easements, rights in land, water rights, contract rights,  
10              franchises, approaches, dams, reservoirs, generating stations, sewage disposal  
11              plants, intercepting sewers, trunk connections, other sewer and water mains, filtration  
12              works, pumping stations, and equipment, and facilities in and upon such buildings and  
13              lands.

14       **SECTION 21. AMENDMENT.** Subsection 11 of section 43-23-06.1 of the North Dakota  
15 Century Code is amended and reenacted as follows:

- 16       11. "Real estate salesperson" means any person that for a fee, compensation, salary, or  
17              other consideration, or in the expectation or upon the promise of that compensation, is  
18              employed or engaged by a licensed real estate broker to do any act or deal in any  
19              transaction as provided in subsection ~~69~~ for or on behalf of such licensed real estate  
20              broker.

21       **SECTION 22. AMENDMENT.** Section 54-21.3-05 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23       **54-21.3-05. Enforcement of code by city, township, or county - Relinquishment.**

24       A city or township may administer and enforce the state building code only within its  
25 jurisdictional area. A county may administer and enforce the state building code within those  
26 areas of the county in which the state building code is not administered by a city or township.  
27 Cities and townships may relinquish their authority to administer and enforce the state building  
28 code to the county in which they are located in the manner provided by section  
29 ~~41-33-2054-40.5-03~~. The governing body of a city, township, or county electing to administer  
30 and enforce the state building code may designate an enforcement agency. Cities, townships,

1 and counties may provide by agreement for joint administration and enforcement and may  
2 contract for private enforcement of the state building code.

3 **SECTION 23. AMENDMENT.** Section 57-15-06 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **57-15-06. County general fund levy.**

6 The board of county commissioners may levy property taxes for county general fund  
7 purposes at a tax rate not exceeding sixty mills per dollar of taxable valuation of property in the  
8 county.

9 ~~A county that levied more than sixty mills for taxable year 2015 for the combined number of~~  
10 ~~mills levied for general fund purposes plus the number of mills levied for other purposes which~~  
11 ~~were combined into the general fund for taxable years after 2014 may levy for general fund~~  
12 ~~purposes for taxable year 2016 the same number of mills that was levied for those purposes for~~  
13 ~~taxable year 2015. A county may levy for general fund purposes for taxable year 2017 sixty mills~~  
14 ~~plus seventy-five percent of the combined number of mills exceeding sixty that was levied for~~  
15 ~~those purposes for taxable year 2015. A county may levy for general fund purposes for taxable~~  
16 ~~year 2018 sixty mills plus fifty percent of the combined number of mills exceeding sixty that was~~  
17 ~~levied for those purposes for taxable year 2015. A county may levy for general fund purposes~~  
18 ~~for taxable year 2019 sixty mills plus twenty-five percent of the combined number of mills~~  
19 ~~exceeding sixty that was levied for those purposes for taxable year 2015.~~

20 Unless a specific exception is provided by statute, the county general fund levy limitation  
21 under this section applies to all property taxes the board of county commissioners is authorized  
22 to levy for general county purposes.

23 **SECTION 24. AMENDMENT.** Section 57-15-08 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25 **57-15-08. General fund levy limitations in cities.**

26 The aggregate amount levied for city general fund purposes may not exceed an amount  
27 produced by a levy of one hundred five mills on the taxable valuation of property in the city. A  
28 city, when authorized by a majority vote of the electors of the city voting on the question at a  
29 regularly scheduled or special election called for such purpose pursuant to a resolution  
30 approved by the governing body of the city, may increase the maximum mill levy for general city  
31 purposes by not more than ten mills.

1       A city that levied more than one hundred five mills for taxable year 2015 in the combined  
2 number of mills levied for general fund purposes plus the number of mills levied for other  
3 purposes which were combined into the general fund for taxable years after 2014 may levy for  
4 general fund purposes for taxable year 2016 the same number of mills that was levied for those  
5 purposes for taxable year 2015. A city may levy for general fund purposes for taxable year 2017  
6 one hundred five mills plus seventy-five percent of the combined number of mills exceeding one  
7 hundred five that was levied for those purposes for taxable year 2015. A city may levy for  
8 general fund purposes for taxable year 2018 one hundred five mills plus fifty percent of the  
9 combined number of mills exceeding one hundred five that was levied for those purposes for  
10 taxable year 2015. A city may levy for general fund purposes for taxable year 2019 one hundred  
11 five mills plus twenty-five percent of the combined number of mills exceeding one hundred five  
12 that was levied for those purposes for taxable year 2015.

13       **SECTION 25. AMENDMENT.** Subsection 6 of section 61-32-03.1 of the North Dakota  
14 Century Code is amended and reenacted as follows:

15       6. Upon approval of a permit, the district shall forward notice of the approved permit and  
16 the downstream flow map to the ~~state engineer~~department of water resources and to  
17 each landowner who owns property within one mile [1.61 kilometers] downstream of  
18 each project outlet according to the tax rolls of the county in which the property is  
19 located, unless the distance to the nearest assessment drain, natural watercourse,  
20 slough, or lake is less than one mile [1.61 kilometers] downstream of the proposed  
21 outlet, in which case the district shall provide notice to landowners with property  
22 between the outlet and the nearest assessment drain, natural watercourse, slough, or  
23 lake. The district shall send copies of the notice by first-class mail, attested by an  
24 affidavit of mailing. The district does not need to provide copies of the permit  
25 application under this subsection.