

JUDICIAL BRANCH OF GOVERNMENT

CHAPTER 233

S. B. No. 221

(Chesrown, Reichert, Longmire)

COURT REPORTERS' SALARIES

AN ACT

To amend and reenact sections 27-06-02 and 27-06-03 of the North Dakota Century Code, relating to salary, expenses and duties of court reporters.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 27-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-06-02. Salary and Expenses of Court Reporter.) Each court reporter shall receive a salary not to exceed seven thousand dollars per annum, payable in equal monthly installments by the counties constituting the judicial district in which such reporter is employed. Such salary shall be set by each district court judge involved and shall be apportioned according and in proportion to the number of suits entered and commenced in the district court of the respective counties of such district in the preceding year. The presiding judge of each judicial district, on the first day of January of each year, or as soon thereafter as may be, shall apportion the amount of such salary to be paid by each county in his district on the basis aforesaid, and the county auditors of the respective counties in such judicial district shall issue to the order of such court reporter a warrant for the amount shown to be due by such apportionment. As reimbursement for expenses incurred in the performance of official duties outside of the county where the district court chambers are situated, the court reporter shall receive expense allowances in accordance with the provisions of section 44-08-04. Such sums shall be paid monthly by the county wherein such court reporter is attending to such official duties, when approved by the board of county commissioners. Claims for transportation expenses shall not exceed the amounts provided by section 54-06-09 and shall be in itemized form showing the mileage traveled, the days when and how traveled, and the purposes thereof, and verified by affidavit. No claim for living expenses or transportation

shall be approved for payment to a court reporter by the board of county commissioners unless such claim shall have been first approved by the district judge.

§ 2. **Amendment.**) Section 27-06-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-06-03. Duties of District Court Reporters.) Each district court reporter shall attend the district court sessions within or without the district whenever the judge appointing him shall so direct and shall take in shorthand all testimony given orally by the witnesses, all objections and rulings made and exceptions taken, any instructions given orally by the court, and all other proceedings at the hearing or trial not otherwise reduced to writing. District court reporters shall perform such other duties as the appointing district court judge may designate.

Approved March 9, 1963.

CHAPTER 234

S. B. No. 352

(Wartner, Longmire, Holand, Brooks, Lips, Sinner, Baker)

COUNTY JUDGES' SALARIES

AN ACT

To amend and reenact section 27-08-08 of the North Dakota Century Code, relating to salaries of judges of county courts of increased jurisdiction.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 27-08-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08-08. Salaries of Judges of County Courts of Increased Jurisdiction—Amount, Payment.) A county judge of a county court of this state having increased jurisdiction, for all services rendered in any capacity, shall receive the following salary: seventy-five hundred dollars in counties having a population not exceeding fifteen thousand inhabitants; eighty-four hundred dollars in counties having a population exceeding fifteen thousand inhabitants but not exceeding forty thousand inhabitants; and ninety-seven hundred dollars in counties having a population exceeding forty thousand inhabitants. Such salary shall be payable by the county in equal monthly installments.

Approved March 21, 1963.

CHAPTER 235

S. B. No. 233
(Holand)

FORCIBLE DETAINER SUMMONS

AN ACT

To amend and reenact subsection 2 and to create and enact subsection 10 of section 27-08-24 of the North Dakota Century Code, to provide that in actions of forcible detainer arising in counties having courts of increased jurisdiction a three-day notice to quit shall be required, that the time specified in the summons for the appearance of the defendant shall not be less than three nor more than fifteen days from the date on which it is issued and providing for a time when such process shall be served.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Subsection 2 of section 27-08-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The summons in any action in a county court having increased jurisdiction, except in actions for forcible detainer, shall require the defendant to answer within twenty days after the service of the summons, exclusive of the day of service, and the answer thereto shall be served accordingly;

§ 2.) Subsection 10 of section 27-08-24 of the North Dakota Century Code is hereby created and enacted to read as follows:

10. In any action for forcible detainer the time specified in the summons for the appearance of the defendant shall be not less than three nor more than fifteen days from the date on which it is issued. In all cases arising under subsections 4, 5, and 6 of section 33-06-01, three days' written notice to quit must be given to the lessee, subtenant, or party in possession, before proceedings can be instituted. Such notice may be served and returned as a summons is served and returned. Service by delivery of a copy of the summons to the defendant in person within the county must be made at least three days before the time fixed for the appearance of the defendant. Service elsewhere or personal service in any other mode must be made at least seven days before the time fixed for the appearance of the defendant.

Approved March 9, 1963.

CHAPTER 236

H. B. No. 619
(Leahy)

ATTORNEY ADMISSION FEES

AN ACT

To amend and reenact section 27-11-17 of the North Dakota Century Code, relating to fees payable by all applicants for admission to bar and disposition of fees.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 27-11-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-11-17. Fee Payable by All Applicants for Admission to Bar—Disposition of Fees.) The state bar board shall receive a fee of twenty dollars from each applicant for admission to the bar of this state who submits to examination by the state bar board and shall receive a fee of one hundred dollars from each applicant for admission to the bar of this state who seeks admission upon motion in accordance with the provisions of sections 27-11-25 and 27-11-26. All such fees received shall be deposited with the state treasurer who shall credit said deposits to the state bar fund.

Approved March 5, 1963.

CHAPTER 237

H. B. No. 607
(Stockman)

ATTORNEY LICENSE FEES

AN ACT

To amend and reenact section 27-11-22 of the North Dakota Century Code, relating to annual licenses to practice law—requirement—issuance—fees.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 27-11-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-11-22. Annual Licenses to Practice Law—Requirement—Issuance—Fees—Exception.) Every person who has an un-

revoked certificate of admission to the bar of this state and who desires to engage in the practice of law therein, on or before the first day of January of each calendar year, shall secure an annual license to practice from the state bar board. Such license shall be issued by the secretary-treasurer of such board upon payment of a fee of forty dollars and shall be good for one year from and after the first day of January of the year for which it is issued except that every person who has an unrevoked certificate of admission to the bar of this state, dated one year or less prior to date of application for license, and who maintains a residence outside this state and who does not engage in the practice of law in this state, shall have such license issued upon the payment of a fee of twenty dollars.

Approved March 13, 1963.

CHAPTER 238

H. B. No. 620
(Leahy)

ADMISSION OF NONRESIDENT ATTORNEYS

AN ACT

To create and enact subsection 6 of section 27-11-25 of the North Dakota Century Code, relating to attorneys admitted to bar in other states admitted without examination.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1.) Subsection 6 of section 27-11-25 of the North Dakota Century Code is hereby created and enacted to read as follows:

6. Has made payment of fees as required by the provisions of section 27-11-17.

Approved March 5, 1963.

CHAPTER 239

H. B. No. 606
(Stockman)

STATE BAR FUNDS

AN ACT

To amend and reenact section 27-12-04 and section 27-12-06 of the North Dakota Century Code, relating to moneys payable from the state bar fund to the state bar association and method of expenditures of association's funds and annual report of receipts and disbursements, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 27-12-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-12-04. Moneys Payable from State Bar Fund to State Bar Association.) The state bar association of North Dakota, out of the state bar fund, annually shall receive seventy-five percent of the annual license fees paid by licensed members, for the purpose of paying for the printing and distribution of the annual report and proceedings of said association and for the payment of other necessary expenses of the association. Such sum shall be paid quarterly into the treasury of the said association by the secretary-treasurer of the state bar board upon vouchers drawn by the president and secretary-treasurer of said association.

§ 2. **Amendment.)** Section 27-12-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-12-06. Method of Expenditure of Association's Funds—Annual Report of Receipts and Disbursements.) Expenditures of funds from the state bar association of North Dakota fund shall be approved by the president and executive director of said association upon vouchers signed by them. Moneys shall be paid from said fund upon the warrant or order of the secretary-treasurer of such association. The secretary-treasurer of said association, in addition to the duties imposed upon him by the constitution, bylaws, and rules of the association, annually shall file in the office of the secretary-treasurer of the state bar board an itemized statement of the receipts and disbursements of said association.

§ 3. **Emergency.)** This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 13, 1963.

CHAPTER 240

H. B. No. 659

(Fitch)

JUVENILE COMMISSIONERS' SALARIES

AN ACT

To amend and reenact section 27-16-03 of the North Dakota Century Code, relating to compensation of juvenile commissioners.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 27-16-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-16-03. Juvenile Commissioners — Compensation.) Each juvenile commissioner shall receive as full compensation for his services such amount as may be fixed and approved from time to time by a judge of the juvenile court, either upon a per diem basis not to exceed ten dollars per day for the time actually and necessarily employed in the discharge of his official duties, or upon a salary basis. In no event shall the salary paid the said juvenile commissioner exceed eight thousand dollars per annum, if paid on a salary basis. In addition thereto, the juvenile commissioner shall be paid the reasonable travel expenses for mileage and subsistence necessarily incurred in the discharge of his official duties, in accordance with the amount allowed to county officials. The salary or per diem or travel expenses as the case may be, shall be paid by the county for which he is appointed or shall be apportioned by the judge among the several counties of the judicial district as are served by such juvenile commissioner. Such compensation shall be paid monthly by the county treasurer of the respective counties upon properly verified claims and upon approval of the judge as other claims against the county are allowed and paid.

Approved March 4, 1963.

CHAPTER 241

S. B. No. 347
(Becker, Longmire)

JUDICIAL RETIREMENT

AN ACT

To amend and reenact subsections 4 and 5 of section 27-17-01 of the North Dakota Century Code Supplement, relating to retirement of supreme court judges and district court judges.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Subsections 4 and 5 of section 27-17-01 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

4. The judicial retirement salary payable under this section shall be paid to the retired judge during the remainder of his natural life and shall be paid by the director of accounts and purchases, within thirty days after receiving application therefor, in the same manner as salaries are paid to judges of the district court and judges of the supreme court, except that judicial retirement salaries shall not be subject to judicial retirement assessment.

5. In lieu of receiving the judicial retirement salary otherwise payable under this chapter, the judge, at any time after having attained retirement age, may irrevocably elect to receive judicial retirement salary according to one of the following optional modes of payment:

- a. First Option. Three-fourths of his judicial retirement salary payable to him alone until he dies and thereafter one-half of such amount payable to his widow upon her attaining sixty-two years of age and until she remarries or until she dies.
- b. Second Option. Two-thirds of his judicial retirement salary payable to him alone until he dies and thereafter a like amount payable to his widow upon her attaining sixty-two years of age and until she remarries or until she dies.
- c. Third Option. One-half of his judicial retirement salary payable to him until he dies and a like amount payable to his wife upon her attaining sixty-two years of age and so long as she continues to be his wife or unremarried widow.

The election of one of the foregoing optional modes of payment shall be made in the application for payment of

judicial retirement salary, or by written declaration of such election, signed by the judge and delivered to the director of accounts and purchases. In the event the judge shall have elected an optional mode of payment and dies without having made application for judicial retirement salary, the judicial retirement salary payable to his widow according to his option shall be payable to her in the same manner as if he had made application for judicial retirement salary. In the event that a judge entitled to retirement pay shall die without having elected an optional mode of payment, his widow shall be entitled to payments as provided by the first option as set forth in subsection 5a of this section. Judicial retirement salary payable according to one of the foregoing optional modes of payment shall be paid in like manner as the full judicial retirement salary is paid. Any judge who retired prior to the effective date of the amendment to this section as provided for in chapter 222 of the 1961 session laws, and otherwise eligible for the optional modes of payment herein provided for, may apply for one of the optional modes of payment by written declaration to the director of accounts and purchases, provided, however, such judge shall repay to the state treasury the amount of money he has drawn since the date of his retirement in excess of what he would have drawn if he had chosen the optional mode of payment now applied for at the date of his retirement.

Approved March 8, 1963.

CHAPTER 242

S. B. No. 30

(Legislative Research Committee)
(From LRC Study)

INDIAN CIVIL JURISDICTION

AN ACT

Providing for the acceptance of civil jurisdiction over civil causes of action arising in Indian country and providing limitations thereon and for withdrawal.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1.) In accordance with the provisions of Public Law 280 of the 83rd Congress and section 203 of the North Dakota Constitution, jurisdiction of the state of North Dakota shall be extended over all civil causes of action which arise on an Indian reservation upon acceptance by Indian citizens in a manner provided by this section. Upon acceptance the juris-

diction of the state shall be to the same extent that the state has jurisdiction over other civil causes of action, and those civil laws of this state that are of general application to private property shall have the same force and effect within such Indian reservation or Indian country as they have elsewhere within this state.

§ 2.) Acceptance of jurisdiction may be by either of the following methods:

1. Upon petition of a majority of the enrolled residents of a reservation who are twenty-one years of age or older; or
2. The affirmative vote of the majority of the enrolled residents voting who are twenty-one years of age or older, at an election called and supervised by the North Dakota Indian affairs commission upon petition of fifteen percent of those eligible to vote at such an election.

§ 3.) Upon acceptance of civil jurisdiction by either method provided in section 2 the executive director of the Indian affairs commission shall certify such acceptance to the governor. Upon such certification the governor shall, within ten days, issue a proclamation proclaiming that thirty days from the date of the issuance of such proclamation the provisions of this Act shall be in effect.

§ 4.) The provisions of this Act shall affect only those causes of action which arise after the effective date of state jurisdiction as provided in section 3.

§ 5.) An individual Indian may accept state jurisdiction as to himself and his property by executing a statement consenting to and declaring himself and his property to be subject to state civil jurisdiction as herein provided. Such jurisdiction shall become effective on the date of execution of such statement. The statement accepting state jurisdiction shall be filed in the office of the county auditor of the county in which the person resides and when so filed shall be conclusive evidence of acceptance of state civil jurisdiction as provided herein.

§ 6.) A guardian appointed by the tribal court or court of Indian offenses may consent to state civil jurisdiction for his ward provided he is authorized to do so by the tribal court or court of Indian offenses.

§ 7.) In addition to other authority conferred by this Act, the courts of this state shall have the power to hold persons in civil or criminal contempt of court in order to maintain the dignity of the courts and enforce their orders.

§ 8.) Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property belonging to any Indian or Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any federal treaty, agreement, or statute, or with any regulation made pursuant thereto; or shall confer jurisdiction upon the state to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property or any interest therein. The civil jurisdiction herein accepted and assumed shall include but shall not be limited to the determination of parentage of children, termination of parental rights, commitments by county mental health boards or county judges, guardianship, marriage contracts, and obligations for the support of spouse, children, or other dependents.

§ 9.) Any tribal ordinance or custom heretofore or hereafter adopted by any Indian tribe, band, or community, in the exercise of any authority which it may possess shall, if not inconsistent with the applicable civil law of this state, be given full force and effect in the determination of civil causes of action pursuant to this section.

§ 10.) The provisions of this Act shall not be construed as requiring the extension of any health, welfare, educational or other governmental service to Indian reservations or Indian country, not otherwise required by the laws or Constitution of this state.

§ 11.) Civil jurisdiction as herein provided over an Indian reservation may be terminated by petition of three-fourths of the enrolled residents of a reservation who are twenty-one years of age or older. Such petition shall be filed with the North Dakota Indian affairs commission.

§ 12.) Upon the filing of a petition for withdrawal from the civil jurisdiction of the state, the executive director of the North Dakota Indian affairs commission after substantiating that the provisions of section 11 have been complied with shall certify such withdrawal to the governor. Upon such certification the governor shall, within ten days, issue a proclamation proclaiming that thirty days from the date of the issuance of such proclamation the civil jurisdiction of the state shall be terminated except as to those causes of action which arose prior to the effective date of such termination or to those contractual obligations which were incurred prior to the effective date of such termination of state civil jurisdiction.

§ 13.) An individual who has accepted state civil jurisdiction under the provisions of section 5 may withdraw upon

filing with the county auditor a statement declaring his withdrawal. Such withdrawal shall not affect causes of action which arose prior to such withdrawal or contractual obligations which were incurred prior to such withdrawal.

Approved March 2, 1963.