

# JUDICIAL BRANCH OF GOVERNMENT

## CHAPTER 217

H. B. No. 903  
(Boustead, Coles, Unruh)

### FAMILY COURTS

#### AN ACT

Establishing family courts as divisions of district courts, and relating to their powers, duties, and procedures.

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

**§ 1. Purposes.)** The purpose of this Act is to protect the rights of children and to promote the public welfare and the welfare of children by preserving, promoting, and protecting family life and the institution of matrimony and to provide means for the reconciliation of spouses and the amicable settlement of domestic and family controversies.

**§ 2. Applicability of the Law—Determination by Presiding Judge.)** The family court shall be established as a division of the district court, having all and the same powers as the district court, only in a county having a population exceeding thirty-five thousand inhabitants and in which the presiding judge of a district determines the social conditions and the number of domestic relations cases in the courts in a county within his district renders the establishment of such court and procedures as herein provided necessary to the full and proper consideration of such cases and the effectuation of the purposes of this Act. Such determination shall be made by court order at any time during the month of May of any year by the presiding judge of the district court of a judicial district and the family court shall thereafter be established on or before July 1 of any such year in which such determination has been made and each district court judge within said district shall be a judge of said family court.

**§ 3. Exercise of Jurisdiction.)** Each district court while sitting in the exercise of such jurisdiction conferred by this Act shall be known and referred to as the "Family Court".

**§ 4. Transfer of Cases to Another Judge.)** A district judge of any judicial district within the state may be requested by a judge of the family court to act as a judge of such court



- d. If the petition is presented by one spouse only, name the other spouse as a respondent, and state the address of that spouse.
- e. State such other information as the court may by rule require.

**§ 7. Petition Forms Provided.)** The clerk of the court shall provide, at the expense of the county, blank forms for petitions and all other notices and orders as the court may by rule require to be filed or provided.

**§ 8. No Fees.)** No fee shall be charged for the filing of the petition in a family court, nor shall any fee be charged for the performance of any service of duty under the provisions of this Act.

**§ 9. Time and Place of Hearing on Petition.)** The court shall fix a time and place for hearing on the petition and shall issue its order setting forth notice of the filing of the petition and the time and place of the hearing and requiring the parties to appear at the time and place stated in the order. The court may prior to the hearing or thereafter issue such further orders concerning the custody and care of the children of the marriage and restraining orders as it may deem necessary under the provisions of chapter 14-04, chapter 14-05, and chapter 14-06 of the North Dakota Century Code.

**§ 10. Referral to Family Counselor.)** At the time of the hearing on the petition the court may refer the parties, by court order, to the court's family court counselor and issue such further orders as it may deem necessary under the provisions of chapter 14-04, chapter 14-05, and chapter 14-06 of the North Dakota Century Code. The family court counselor shall set a time and place in the county for a conference or series of conferences to attempt to effect a reconciliation of the spouses or an amicable adjustment or settlement of the issues of the controversy and, if necessary, issue citations to the spouses and witnesses requiring them to appear at the time and place stated in the citation.

**§ 11. Conference Informal.)** The conferences before the family court counselor shall be conducted informally. To facilitate and promote the purposes of this Act, the court counselor may, with the consent of both of the parties to the proceeding, recommend or invoke the aid of physicians, psychiatrists or other specialists, scientific or social experts, or the pastor or director of any religious denomination to which the parties may belong. Such aid, however, shall not be at the expense of the court or of the county, unless the county commissioners of the county specifically provide and authorize such aid.

**§ 12. Privacy of Hearing.)** All district court hearings or conferences in proceedings under this Act shall be held in private and the court shall exclude all persons except the officers of the court, the parties, their counsel, and witnesses. Conferences may be held with each party while the other party is excluded. No stenographic transcript or record of the conferences shall be made or recorded save as the judge of the family court may order.

**§ 13. Communications and Files Confidential.)** All communications, verbal or written, from the parties to the family court counselor in the proceedings under this chapter shall be made to such counselor in official confidence. The files and records of a family court and its counselor in proceedings conducted under the provisions of this Act shall not be open to inspection or copy by anyone, including the parties, except upon an order of the court.

**§ 14. Admissions and Statements at Conferences Inadmissible in Evidence.)** No statement or other admission made by either party in the course of any conference held under this Act may be received in evidence against the party making the same, without such party's consent in any action, nor may either party thereto plead a defense of condonation arising out of any act of either spouse during such time as the family court retains jurisdiction of the parties and proceedings.

**§ 15. Appointment and Duties of the Family Court Counselor.)** The family court counselor shall be appointed and removed by the court and shall:

1. Hold conferences with parties to, and hearings in, proceedings under this Act, and make recommendations concerning such proceedings to the judge of the family court;
2. Cause such reports to be made, such statistics to be compiled and such records to be kept and perform such other duties as a judge of the family court may direct;
3. Shall have the same powers as masters under the provisions of Rule 53 of the North Dakota Rules of Civil Procedure.

**§ 16. Juvenile Commissioners' and Welfare Board Assistance.)** The juvenile commissioners and county welfare boards in every county in which a family court is established shall give such assistance to the family court as the court may request to carry out the purposes of this Act and for that purpose may exercise all the powers pertaining to their offices granted or imposed pursuant to the laws of this state.

§ 17. **Reconciliation Agreement.**) Any reconciliation agreement entered into between the parties may be reduced to writing and a court order may be made requiring the parties to comply therewith.

§ 18. **Stay of Further Proceedings for Divorce, Annulment, or Separation.**) During a period beginning upon the filing of the petition and continuing until sixty days after the date of the hearing on the petition, neither spouse shall file any action for divorce, annulment, or separation. If, however, after the expiration of such time, the controversy between the spouses has not been terminated, or within any time during such sixty-day period as the court by order may provide, either spouse may institute proceedings for divorce, annulment, or separation under the provisions of chapter 14-03, chapter 14-04, and chapter 14-05 of the North Dakota Century Code. The pendency of an action for divorce, annulment, or separation shall not operate as a bar to the instituting of further proceedings under this Act, with the consent of both of the parties to the action.

Approved March 15, 1965.

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## CHAPTER 218

H. B. No. 561

(Aamoth, Jungroth, Meschke, Wagner)

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### SALARIES OF JUDGES OF COUNTY COURTS OF INCREASED JURISDICTION

#### AN ACT

To amend and reenact section 27-08-08 of the North Dakota Century Code as set forth in the 1963 Pocket Supplement to Volume 5, relating to salaries of judges of the 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 as set forth in the 1963 Pocket Supplement to Volume 5 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: nine thousand dollars in counties having a population not exceeding fifteen thousand inhabitants; eleven thousand dol-

lars in counties having a population exceeding fifteen thousand inhabitants but not exceeding twenty-two thousand inhabitants; and twelve thousand dollars in counties having a population exceeding twenty-two thousand inhabitants. Such salary shall be payable by the county in equal monthly installments.

Approved March 10, 1965.

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## CHAPTER 219

H. B. No. 599

(Meschke, Stockman, Jungroth)

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### JURIES

#### AN ACT

To amend and reenact section 27-09-26 of the North Dakota Century Code, relating to the use of juries by district courts and county courts of increased jurisdiction and the creation and enactment of a new section 27-09-27 of the North Dakota Century Code, relating to attendance of jury panels at terms of court.

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

**§ 1. Amendment.)** Section 27-09-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**27-09-26. District Courts and County Courts Having Increased Jurisdiction May Use Each Others' Jury Panels.)** A judge of the district court or the judge of a county court having increased jurisdiction may, by order, use an undischarged jury panel ordered, drawn, and summoned by the other, at any general, special, or adjourned term of the court for a county mutually served by such courts and for which no jury panel has been ordered.

**§ 2.)** Section 27-09-27 of the North Dakota Century Code is hereby created and enacted to read as follows:

**27-09-27. When Jury Panel to Attend Subsequent Term.)** A judge of the district court may, by order, require an undischarged jury panel summoned to attend a term of the court to attend any subsequent general, special, or adjourned term of the court not exceeding in all one calendar year.

Approved March 1, 1965.

## CHAPTER 220

S. B. No. 58

(Ringsak, Dahlund, Kjos, Walz, Longmire, Morgan, Lashkowitz,  
(Sorlie, Bopp, Thompson, Kadlec, Chesrown, Forkner)

## ATTORNEYS' LICENSES

## AN ACT

To amend and reenact section 27-11-22 of the North Dakota Century Code as set forth in the 1963 Supplement to Volume 5, 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 unrevoked certificate of admission to the bar of this state and who desires to engage in the practice of law or hold judicial office therein, on or before the first day of January of each calendar year, shall secure an annual license 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, or 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 15, 1965.

## CHAPTER 221

H. B. No. 916  
(Aamoth)

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## STATE BAR FUND

## AN ACT

To amend and reenact subsection 3 of section 27-11-24 of the North Dakota Century Code, relating to expenditures of state bar fund.

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

**§ 1. Amendment.)** Subsection 3 of section 27-11-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The expenses incurred by the state bar board in conducting examinations of applicants for admission to the bar of this state and expenses of the state bar board or a grievance committee of the supreme court in investigating charges warranting the suspension or disbarment of members of the bar, or in prosecutions brought and conducted before the supreme court for the discipline of such members;

Approved March 10, 1965.

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## CHAPTER 222

S. B. No. 59  
(Ringsak, Dahlund, Kjos, Walz, Longmire, Morgan, Lashkowitz,  
(Sorlie, Bopp, Thompson, Kadlec, Chesrown, Forkner)

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## BAR ASSOCIATION MEMBERSHIP

## AN ACT

To amend and reenact section 27-12-02 of the North Dakota Century Code, relating to membership of bar association.

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

**§ 1. Amendment.)** Section 27-12-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**27-12-02. Membership of Bar Association.)** The membership of the state bar association of North Dakota shall consist of all attorneys who have paid their annual license fees to and have received their licenses from the secretary-treasurer of the state bar board, as provided by law.

Approved March 15, 1965.

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CHAPTER 223

H. B. No. 559  
(Stockman)

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JUDICIAL COUNCIL

AN ACT

To amend and reenact sections 27-15-01 and 27-15-10 of the North Dakota Century Code, relating to establishment of judicial council and compensation.

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

**§ 1. Amendment.)** Section 27-15-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**27-15-01. Judicial Council Established.)** There shall be maintained a judicial council consisting of:

1. All judges of the supreme court, district courts, and county courts of increased jurisdiction of the state;
2. The attorney general;
3. The dean of the school of law of the university;
4. Five members of the bar who are engaged in the practice of law who shall be chosen by the executive committee of the state bar association; and
5. All retired judges of the supreme and district courts of the state.

**§ 2. Amendment.)** Section 27-15-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**27-15-10. Compensation — Expenses.)** No member of the council shall receive compensation for any services rendered by him in such capacity, but any necessary expenses incurred by any judge of the county, district and supreme courts in the

discharge of his duties as a member shall be deemed expenses incurred in the performance of the duties of his office and shall be paid as such. The expenses of all other members of the council shall be audited and paid from the state bar fund in the same manner as other claims against such fund are paid except that in the matter of mileage expenses, the retired judges who are members of the council shall be paid such only for travel within the state.

Approved March 10, 1965.

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## CHAPTER 224

H. B. No. 748  
(Hardmeyer)

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### JURISDICTION OF COUNTY JUSTICES

#### AN ACT

To provide additional jurisdiction and authority to county justices.

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

**§ 1. County Justice — Authority — Jurisdiction — Records.)**

Every county justice in this state who resides in, or who has his main law office in a county, other than the one for which he was appointed, or elected, and qualified, as county justice, shall have jurisdiction in the county in which he resides or in which he has his main law office, to do and perform any of the acts and to exercise any of the powers and authority as county justice, relative to the county or counties for which he was appointed or elected; provided, however, that he shall not hold a jury trial in any county except the one for which he is qualified as county justice, unless by change of venue, nor shall any trial be conducted by such county justice in a county other than the one for which he has qualified, without the consent of the parties concerned, unless by change of venue. In such situations where the county justice resides in or has his main law office in a county other than that for which he has qualified as county justice, the clerk of the district court of the county for which the county justice qualified, shall also serve as clerk of the county justice during the absence from such county of the qualified county justice, and at such other times as the county justice may approve, and said clerk shall have the right to administer complainants oaths and file criminal complaints, and with the approval of the state's attorney of the county involved, to issue warrants of arrest,

and he shall also during the absence from the county of such county justice have authority to set the amount and to take and approve bonds, and to arrange continuances, postponements and adjournments, and to issue process, subpoenas, orders, warrants, summonses, and other pleadings, papers or documents, with the same force and effect as though filed, issued, executed or done by a regular county justice qualified as to such county, until a duly qualified county justice can and does appear to attend to such matters; that in addition, any county justice in the state may in his discretion designate, authorize, and appoint an additional person or persons to arrange, receive, and approve bonds in cases involving traffic violations; that as soon as it can conveniently be done, all papers, files, process and pleadings shall be delivered to the county justice entitled thereto; that in addition to other provisions of law, during the absence of any county justice from the state or during his disqualification, inability, or refusal to act with reference to the county for which he was elected, appointed, or qualified, the clerk of the district court of such county, after consulting with the state's attorney, may arrange to have any county justice from any adjacent county, to take the place of, and to act in the place of the county justice who is thus disqualified, absent, unable, or unwilling to act. The provisions of this Act shall be applicable both in civil and criminal matters involving the county justice and the justice court of such county.

Approved March 2, 1965.

## CHAPTER 225

S. B. No. 38  
(Reichert, Longmire, Sinner)  
(From LRC Study)

## JUDICIAL SELECTION

## AN ACT

To restrict judges of the supreme court or district courts from practicing law and requiring such judges not to hear cases in which they have an interest and to define vacancies in the supreme court and district courts and the method of filling such vacancies and to create sections 16-06-06.1 and 27-15-03.1 of the North Dakota Century Code, relating to placing the names of judges on the election ballot and judicial council meetings; to amend and reenact sections 16-04-01, 16-04-02, 16-05-01, 27-02-01, 27-15-03, 27-15-05, 44-02-02, and 44-02-03 of the North Dakota Century Code, relating to election ballots, petitions, certificates of nomination for elected officials, the duties of the judicial council, the selection of the chief justice of the supreme court, vacancies in state or district offices, and providing an effective date.

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

**§ 1. When an Office of Judge of the Supreme Court or District Court Deemed Vacant.)** An office of the supreme court or district court shall become vacant if the incumbent shall:

1. Die in office;
2. Resign from office;
3. Be adjudged incapacitated in accordance with the provisions of the Constitution;
4. Be convicted under impeachment proceedings;
5. Cease to be a resident of the state;
6. Fail to qualify as provided by law;
7. Cease to possess any one of the qualifications of office prescribed by law;
8. Have his election or appointment declared void by a competent tribunal; or by
9. Non-reelection as provided by law; or by the
10. Filing of a declaration of non-candidacy as provided by law.

**§ 2. Resignations of Supreme Court and District Court Judges—to Whom Made.)** If a judge of the supreme court or district court resigns from office before the expiration of his term he shall submit such resignation in writing to the governor and the chairman of the judicial nominating commission.

**§ 3. Non-reelection or Filing of a Declaration of Non-candidacy.)** In the event of the rejection by the electorate of a judge of the supreme court or district court, the office of the judge shall be deemed vacant at the expiration of forty-five days from the date of the general election. If a judge of the supreme court or district court desires to retire upon the expiration of his term, he shall file a declaration of his non-candidacy with the secretary of state, governor, and chairman of the judicial nominating commission, not less than ninety days prior to the date of the general election, and the term of office for which he was selected or elected shall expire forty-five days from the date of the general election.

**§ 4. Vacancy in the Office of Supreme Court and District Court Judges—How Filled.)** A vacancy in the office of judge of the supreme court or district court as defined by law shall be filled pursuant to section 90 of the Constitution.

**§ 5. Terms of Judicial Nominating Commission Members.)** Each member except the chief justice shall serve for a term of six years except that upon the effective date of this Act the governor and the North Dakota state bar association shall appoint two members for two years, two members for four years, and two members for six years.

**§ 6. Vacancies in Office of Supreme Court Judge—Selection of Nominees.)** The whole judicial nominating commission shall meet within thirty days after a vacancy or the filing of a declaration of non-candidacy in the office of judge of the supreme court as defined by law. The chairman shall notify each member of the commission of the place and time of all meetings. A majority of the commission shall constitute a quorum and a majority of such quorum may act upon all matters properly before the commission. The commission shall nominate at least three qualified persons for each vacant office and shall submit a list of such nominees for each vacant office to the governor. Each member of the commission shall receive his actual and necessary expenses incurred by him in attending scheduled meetings and in performance of his official duties in the same manner and amounts as other state officials but shall receive no salary or compensation for services performed.

**§ 7. Vacancies in Office of District Court Judge—Selection of Nominees.)** The chairman of the judicial nominating commission and the members of the judicial nominating commis-

sion from the judicial district in which a vacancy has occurred in the office of judge of the district court shall meet within thirty days after the vacancy or the filing of a declaration of non-candidacy in the office of judge of the district court of such judicial district. The chairman shall notify each such member of the commission of the place and time of all meetings. A majority of the members of the commission named herein shall constitute a quorum and a majority of such quorum may act upon all matters properly before such members. Such members shall nominate at least three qualified persons for each vacant office in such judicial district and shall submit a list of such nominees for each vacant office to the governor. Each such member shall receive the same expenses and compensation as provided in section 6 of this Act.

**§ 8. Amendment.)** Section 16-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*16-04-01. Primary Election — When Held — Nomination of Candidates—Nomination for Special Elections.)** On the first Tuesday in September of every year in which a general election occurs, there shall be held in the various voting precincts of this state, in lieu of party caucuses and conventions, a primary election for the nomination of candidates for the following offices to be voted for at the ensuing general election: representatives in Congress, state officers, county officers, district assessors, and the following officers on the years of their regular election: members of the legislative assembly, county commissioners, and United States senators. In special elections the nominations for the officers enumerated in this section shall be made as provided in this title.

**§ 9. Amendment.)** Section 16-04-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16-04-02. State Candidate's Petition Required to Get Name on Ballot—Contents of Petition.)** Every candidate for United States senator, United States representative, state officers, shall not more than sixty days nor less than forty days prior to a primary election, present to the secretary of state a petition giving his name, post office address, the title of the office to which he aspires, and the party which he represents. Such petition shall contain the names of three percent of the total vote cast for the candidates of the party with which he affiliates, for the same position at the last general election, except that in no case shall more than three hundred names

**\*Note:** This section was also amended by section 2, chapter 157, 1965 S.L.

be required. In a case where there is a candidate for the no-party ballot or where there was no candidate of a party for a position at the preceding general election, the nominating petition shall contain at least three hundred names. Each name on the petition shall be that of a legal voter and shall be subscribed under a certified party heading.

**§ 10. Amendment.)** Section 16-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16-05-01. Certificates of Nomination—Place of Filing.)** Certificates of nomination for candidates for offices to be filled by the electors of the entire state, or of any division or district greater than a county, and for legislative offices, except the offices of judges of the supreme court and the district courts, shall be filed with the secretary of state. Certificates of nomination for county officers shall be filed with the county auditor of the respective counties wherein the officers are to be elected.

**§ 11.)** Section 16-06-06.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

**16-06-06.1. Supreme Court and District Court Judges' Names Placed on Official General Election Ballot.)** The secretary of state shall place the names of all judges of the supreme court and district courts, who have not filed a declaration of non-candidacy as provided by law or who have not otherwise been removed from office in accordance with section 1 of this Act, on the respective official ballots to be voted for at the general election in the year the terms of said judges shall expire.

**§ 12. Amendment.)** Section 27-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**27-02-01. Appointment and Duties of Chief Justice of the Supreme Court.)** The judicial council shall appoint from the members of the supreme court a chief justice who shall serve for a term of five years or until his term shall expire, whichever shall first occur. The chief justice may resign the office of chief justice without resigning from the office of judge of the supreme court. The chief justice shall preside at all terms of the supreme court. In the absence of the chief justice, the judge having the shortest term to serve, shall preside in his stead.

**§ 13. Effective Date of Appointment.)** The judicial council shall make its first appointment of a chief justice at its next regular scheduled judicial council meeting following

the effective date of this Act. The judge having the shortest term to serve shall temporarily act as chief justice until the first meeting of the judicial council following the effective date of this Act.

§ 14. **Amendment.)** Section 27-15-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**27-15-03. Organization of Council—Rules of Procedure.)** The chief justice, during his term as chief justice, shall be chairman of the judicial council except when the council is meeting to select a chief justice. An executive secretary shall be chosen by the council either from within or without the council. The council shall make rules for its procedure and the conduct of its business.

§ 15.) Section 27-15-03.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

**27-15-03.1. When Supreme Court Judges Shall Not Attend Meetings.)** Judges of the supreme court shall not attend the meeting of the judicial council when it is selecting a chief justice. The members of the council shall select from its own members a chairman to act during said meeting.

§ 16. **Amendment.)** Section 27-15-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**27-15-05. Duties.)** The judicial council shall make a continuous study of the operation of the judicial system of the state to the end that procedure may be simplified, business expedited, justice better administered, and shall perform any other duties which may be prescribed by law.

§ 17. **Amendment.)** Section 44-02-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**44-02-02. Resignations of Officers—to Whom Made.)** The resignation of an officer must be in writing and must be made as follows:

1. The governor and lieutenant governor, to the legislative assembly, if it is in session, and if not, to the secretary of state;
2. Any other state or district officer, except judges of the supreme court and district courts who shall submit their resignation as provided by section 2 of this Act, to the governor;

3. A member of the legislative assembly, to the presiding officer of the branch of which he is a member, when in session, and when not in session, to the governor. When made to the presiding officer, he at once shall notify the governor thereof;
4. An officer of the legislative assembly, to the branch of which he is an officer;
5. An elective county officer, by filing or depositing such resignation in the office of the county auditor, except that the resignation of the county auditor shall be filed or deposited with the board of county commissioners. Any such resignation, unless a different time is fixed therein, shall take effect upon such filing or deposit;
6. An officer of a civil township, to the board of supervisors of the township, except that a member of such board shall submit his resignation to the township clerk, and the township clerk forthwith shall give to the county auditor notice of the resignation of all officers whose bonds are filed with such officer; and
7. Any officer holding his office by appointment, to the body, board, court, or officer which appointed him.

§ 18. **Amendment.**) Section 44-02-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**44-02-03. Vacancy in State or District Office—How Filled.)** Any vacancy in a state or district office, except in the office of a member of the legislative assembly, shall be filled by appointment by the governor. A vacancy in the office of judge of the supreme court or district court shall be filled by appointment by the governor as provided by section 90 of the Constitution. If during a vacancy in the office of governor, the lieutenant governor shall be impeached, displaced, resign, or die, or from mental or physical disease or otherwise become incapable of performing the duties of the office of governor as provided by section 72 of the Constitution of the state of North Dakota, then the succession to the office of governor shall be the secretary of state, speaker of the house, president pro tem of the senate, attorney general, in the order named. Each succeeding person named shall hold the office of governor until the vacancy is filled by election or until any disability of the preceding person in the line of succession is removed.

§ 19. **Restriction on Practicing Law by Judges.)** No judge of the supreme court or district court shall act as attorney or counselor at law during the period of his incumbency. Any

such judge who willfully shall violate the provisions of this section shall be subject to removal from office.

**§ 20. Judge Cannot Be an Interested Party.)** No judge of the supreme court, district court, or county court of increased jurisdiction shall hear or try any case in which he is or may be an interested party.

**\*§ 21. Effective Date.)** This Act shall not become effective unless and until the electors approve the amendment of section 90 of the Constitution submitted for approval of the electorate of this state at the general election in 1966 as designated in Senate Concurrent Resolution "P" of the Thirty-ninth Legislative Assembly.

Approved March 19, 1965.