

BANKS AND BANKING

CHAPTER 96

S.B. No. 181
(Hernett)

SUPERVISION OF STATE DEPARTMENT OF BANKING AND FINANCIAL INSTITUTIONS

AN ACT

To amend and reenact section 6-01-01 of the North Dakota Century Code, relating to management and control of state department of banking and financial institutions.

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

Section 1. Amendment.) Section 6-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-01-01. Management and Control—State Department of Banking and Financial Institutions.) The state department of banking and financial institutions shall be under the supervision of the state banking board and a chief officer designated as the commissioner of banking and financial institutions, and known as the state examiner. Whenever the term state examiner is used in this Code, it shall mean the commissioner of banking and financial institutions. The state department of banking and financial institutions shall have charge of the execution of all laws relating to state banks, savings banks, trust companies, building and loan associations, mutual investment corporations, mutual savings corporations, banking institutions and other financial corporations, exclusive of the Bank of North Dakota and all credit unions, organized or doing business under the laws of this state. The same power granted herein to the state department of banking and financial institutions with reference to the corporations named in this section shall be granted to the state credit union board with reference to credit unions.

Approved February 25, 1969.

CHAPTER 97

S. B. No. 446
(Freed)

STATE BANKING BOARD AND
STATE CREDIT UNION BOARD

AN ACT

To amend and reenact section 6-01-03 of the North Dakota Century Code, relating to state banking board and state credit union board.

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

Section 1. Amendment.) Section 6-01-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-01-03. State Banking Board and State Credit Union Board.)

1. The state banking board shall consist of the state examiner and five members to be appointed by the governor, three of whom shall each have had at least five years experience in an executive capacity in the management of a state bank in the state of North Dakota, one of whom shall have had at least five years experience in an executive capacity in the management of any state or national bank in North Dakota, and one of whom shall have had at least five years experience in an executive capacity in the management of any state chartered building and loan association. The term of office of the members of such board, other than the state examiner, shall be for a period of five years, except that the members appointed hereunder shall choose by lot which shall serve for one, two, three, four, or five years respectively, provided, however, that the members of the board serving in office at the effective date hereof shall continue to serve until the end of their respective terms and the term of no new member shall be set to end at the same time as the term of any board member in office. At the expiration of the terms of the members of the board in office at the effective date of this Act, their replacements will be appointed as set forth herein. In case of a vacancy in such board, by death, resignation, or removal of an appointed member, the vacancy shall be filled by appointment by the governor for the unexpired term. The state examiner shall be the chairman of such board and the attorney general shall be, ex officio, the attorney for

such board. The chief deputy examiner shall serve as its secretary. The board shall hold regular meetings in January, April, July, and October of each year in the office of the state examiner in the state capitol at Bismarck, and shall hold special meetings at the call of the state examiner in such place as he may designate within the state of North Dakota. The members of such board, other than the state examiner, shall receive twenty-five dollars per day and their actual necessary expenses for transportation while attending meetings, or in the performance of such special duties as the board may direct. In the event of travel by automobile, they shall receive the same mileage expense allowed state employees.

2. The state credit union board shall consist of the state examiner and two members to be appointed by the governor from a panel of five names of persons, residents of North Dakota, who have had at least three years experience as an officer, director or committee member of a North Dakota state chartered credit union, said panel of five names to be furnished to the governor by the North Dakota credit union league. Appointments of board members shall be for a term of five years. In case of a vacancy in such board, by death, resignation, or removal of an appointed member, the vacancy shall be filled by appointment by the governor for the unexpired term. The state examiner shall be the chairman of such board and the attorney general shall be ex officio, the attorney for such board. The chief deputy examiner shall serve as its secretary. The members of the state credit union board shall receive the same remuneration as is provided for the members of the state banking board. The state credit union board shall hold meetings in June and December of each year in the office of the state examiner in the state capitol at Bismarck and shall hold special meetings at the call of the state examiner in such place as he may designate within the state of North Dakota.

3. The word "board" when used in this title shall include the state banking board and the state credit union board.

Approved March 14, 1969.

CHAPTER 98

H. B. No. 120
(Backes, Sanstead, J. Peterson)

BONDS OF STATE EXAMINER
AND HIS DEPUTIES

AN ACT

To amend and reenact section 6-01-12 of the North Dakota Century Code, relating to bonds of state examiner and deputies.

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

Section 1. Amendment.) Section 6-01-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-01-12. Bonds of State Examiner and Deputies.) The state examiner and each of his deputies shall be bonded in the sum of fifty thousand dollars, as other civil officers are bonded. Such bonds shall be filed in the office of the secretary of state.

Approved March 5, 1969.

CHAPTER 99

H. B. No. 122
(Backes, Sanstead, J. Peterson)

APPOINTMENT OF DEPUTY STATE EXAMINERS

AN ACT

To amend and reenact section 6-01-13 of the North Dakota Century Code, relating to state examiner and appointment of deputies.

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

Section 1. Amendment.) Section 6-01-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-01-13. State Examiner—Appointment of Deputies.) The state examiner may appoint, remove, and assign appropriate titles to such deputy examiners and such other employees as in his judgment may be necessary for the proper discharge of the business of the banking department. The state examiner may select and designate one of said deputy examiners to be chief deputy examiner and to act during the absence or disability of the state examiner, and in such cases the deputy examiner so designated shall have charge of the office and shall administer its affairs. He shall perform such duties as may be prescribed by the examiner.

Approved March 8, 1969.

CHAPTER 100

S. B. No. 341
(Hernett, G. Larson)

HEARING ON ESTABLISHMENT
OF NEW BANK

AN ACT

To amend and reenact section 6-02-06 of the North Dakota Century Code, relating to hearing by board and conclusions.

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

Section 1. Amendment.) Section 6-02-06 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-02-06. Hearing By Board—Conclusions.) At the time and place stated, and through any sources of information at its command, the board diligently shall inquire whether the place where such banking association is proposed to be located is in need of further banking facilities, whether the proposed association is adapted to the filling of such need, and whether the proposed incorporators are possessed of such character, integrity, reputation, and financial standing as shown by a detailed financial statement to be furnished by them, that their connection with the banking association will be beneficial to the public welfare of the community in which such bank is proposed to be established. The state banking board shall inquire into the qualifications of the management of the proposed bank. Qualifications of management shall include adequate experience, as determined by the board, with financial institutions or other approved related experience. Prior to such hearing, the applicants shall pay to the board such sum as it may designate not exceeding five hundred dollars to defray the cost of investigation and hearing by the board. The board shall hear any reasons advanced by the applicants why they should be permitted to organize the proposed association, and any reasons advanced by any person why such association should not be permitted to be organized. At the termination of such hearing, the board shall make a brief statement in writing of its conclusions, and if it finds that the proposed association should not be permitted

to organize, it shall state briefly the reasons why. A copy of such conclusions either shall be endorsed upon or attached to the organization certificate, together with the refusal or grant of permission to the proposed incorporators to present the said organization certificate to the secretary of state. A determination in favor of such organization must be joined in by a majority of all the members of the board.

Approved March 14, 1969.

CHAPTER 101

S.B. No. 140
(Goldberg)

PUBLICATION OF BANKING ASSOCIATION'S
CERTIFICATE AND AUTHORIZATION

AN ACT

To repeal section 6-02-08 of the North Dakota Century Code, relating to certificate and authorization published of banking associations.

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

Section 1. Repeal.) Section 6-02-08 of the North Dakota Century Code is hereby repealed.

Approved February 22, 1969.

CHAPTER 102

H. B. No. 114
(Dahl)

BOARD OF DIRECTORS OF BANKING ASSOCIATION

AN ACT

To amend and reenact subsection 5 of section 6-03-02 of the North Dakota Century Code, relating to powers of banking associations.

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

Section 1. Amendment.) Subsection 5 of section 6-03-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. To elect or appoint directors, such board to consist of an uneven number of members, not less than three nor more than eleven, a majority of whom must be residents of the state of North Dakota, and, by such board of directors, to appoint a president, who shall be a member of said board, a cashier, and such other employees as may be required, to define their duties, to require bonds of them and fix the penalty thereof, and to dismiss such officers and employees, or any of them, and appoint others to fill their places;

Approved March 5, 1969.

CHAPTER 103

H. B. No. 100
(Hoghaug)

BANK DIRECTOR'S OATH OF OFFICE

AN ACT

To amend and reenact section 6-03-04 of the North Dakota Century Code, relating to bank director's oath of office and filing.

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

Section 1. Amendment.) Section 6-03-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-04. Director's Oath of Office—Filing.) Every director, when elected or appointed, shall take an oath that he, so far as the duty devolves upon him, diligently and honestly will administer the affairs of the association, that he will not knowingly violate or willingly permit to be violated any of the provisions of this title, that he is a bona fide owner of the number of shares of stock, required by this title to become a director, standing in his own name on the books of the association, and that said stock is in his possession and control and is not hypothecated or in any way pledged as security for any debt. Such oath, subscribed by the director making it and certified by the officer before whom it was taken, at once shall be transmitted to the state examiner to be filed in his office.

Approved March 5, 1969.

CHAPTER 104

H. B. No. 113
(Dahl)

CONVERSION OF STATE BANK TO NATIONAL BANK**AN ACT**

To amend and reenact section 6-03-13 of the North Dakota Century Code, relating to conversion to national bank, sale of bank, and removal to new location.

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

Section 1. Amendment.) Section 6-03-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-13. Conversion to National Bank—Sale of Bank—Removal to New Location.) An association organized to do business in any city in this state, and which has sold or converted its business to a national bank or to any other banking association which is continued at the same place, shall not use its charter to recommence business at another place without first obtaining the consent of the state banking board. When a banking association which has not so converted or sold its business is located at a place where there is not, or can reasonably project that there will not be, sufficient business for the profitable conduct of a bank, such association may apply to the state banking board for authority to remove its business to some other place within the state and to change its name if desired, and upon the approval of such application, by the board and the proper amendment of the articles of incorporation, the board may issue authority for such removal and change. No such association, however, shall be permitted to remove its business to any city unless it has the full amount of capital stock and surplus required by this title for a new organization in such city.

Approved March 10, 1969.

CHAPTER 105

H. B. No. 101
(Hoghaug)

ESTABLISHMENT OF BANK PAYING
AND RECEIVING STATIONS

AN ACT

To amend and reenact section 6-03-15 of the North Dakota Century Code, relating to application to state banking board to establish stations.

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

Section 1. Amendment.) Section 6-03-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-15. Application to State Banking Board to Establish Stations.) Any institution desiring to establish a paying or receiving station shall make application to the state banking board in such manner and form as shall be prescribed by it, giving such information as the board may require, and, at the time of filing the application, shall pay to the board such sum as it may designate, not exceeding the sum of one hundred dollars, to defray the cost of investigation by the board.

Approved March 5, 1969.

CHAPTER 106

S.B. No. 147

(Stroup, Wenstrom, Kautzmann)

RESERVE REQUIREMENTS OF BANKING
ASSOCIATION

AN ACT

To amend and reenact section 6-03-37 of the 1967 Supplement to the North Dakota Century Code, relating to banks' reserve requirements.

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

Section 1. Amendment.) Section 6-03-37 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-37. Reserve Funds.) Every banking association shall have on hand at all times in available funds an amount which shall equal a percentage of its demand deposits and amounts due to other banks, plus a percentage of its time deposits. Such percentage shall be set by the state banking board. Such reserve funds may consist of cash on hand and balances due to the association from the Bank of North Dakota, or good solvent state or national banks, approved by the state examiner for such purposes and located in such cities as will facilitate banking exchange. The state examiner, whenever he deems it necessary, may require such banking association, on fifteen days' notice in writing, to increase such reserve requirements to not more than twenty percent of its demand deposits nor more than ten percent of its time deposits. Cash items shall not be included in computing reserve, and no association shall carry as cash, or as cash items, any paper or other matter except legitimate bank exchange which will be cleared on the same or the next succeeding day. Whenever its reserve funds are below the required amount, no dividend may be paid.

If on any one day, reserves shall not meet the requirements, it shall not be a violation of this section provided that the average reserve for the period starting on Thursday of the same calendar week and ending on the second

Wednesday following, shall equal or exceed the minimum requirements.

The state examiner must notify any association whose reserve is below the amount required to make good such reserve, and if such association shall fail to do so for a period of thirty days after such notice, the state banking board may impose a penalty of not less than one hundred dollars or an amount equal to seven percent per annum based on the average deficiency for the period of deficiency, whichever is greater, which shall be collected in the same manner as other penalties prescribed in this title.

Approved February 22, 1969.

CHAPTER 107

S. B. No. 162
(Kautzmann, Stroup)

INVESTMENT OF ASSETS OF A BANK

AN ACT

To amend and reenact section 6-03-38 of the North Dakota Century Code, relating to banks' investments - violation a misdemeanor.

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

Section 1. Amendment.) Section 6-03-38 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-38. Assets Not To Be Used in Other Business—Exceptions—Violation a Misdemeanor.) No bank, except as otherwise authorized in this title, shall employ its money or other assets as principal, directly or indirectly, in trade or commerce, nor shall it employ or invest any of its assets or funds in the stock of any corporation, bank, partnership, firm, or association, provided, however, that a state bank may to the extent that banks subject to the laws of the federal government are permitted to do so, purchase shares of stock in small business investment companies organized under Public Law. No. 85-699, 85th Congress, known as the Small Business

Investment Act of 1958, and any amendments thereto, or chapter 10-30 of the North Dakota Century Code, but in no event shall any state bank hold shares in small business investment companies in an amount aggregating more than two percent of the bank's capital and surplus, nor in speculative margins of stock, bonds, grain, provisions, produce, or other commodities, except that it shall be lawful for a bank to make advances for grain or other products in store or in transit to market, and to invest in stocks of subsidiary corporations, when the activities of such corporations are incidental to banking activities, with the specific approval of the state banking board for each such subsidiary. The state banking board shall have the same power to make rules and regulations for the subsidiary corporations, and to examine its records and affairs, as it has for other financial corporations under the provisions of section 6-01-04. In the event that the state banking board determines that such investments would be detrimental to the interests of a bank's depositors, it may direct the bank to divest itself of such subsidiary investments. In addition to the above, the state banking board shall have power to issue regulations authorizing state banks to engage in any banking activity in which such banks could engage where they operated as national banks at the time such authority is granted, notwithstanding any restriction elsewhere contained in this Code. Any officer, director, or employee of any bank who shall invest or use its funds contrary to the provisions of this title shall be guilty of a misdemeanor.

Approved February 25, 1969.

CHAPTER 108

S.B. No. 141
(Goldberg)

LIQUIDATION OF AGRICULTURAL CREDIT
CORPORATION INVESTMENTS

AN ACT

To repeal section 6-03-40.1 of the North Dakota Century Code, relating to liquidation of investments in agricultural credit corporations and penalty of banking associations.

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

Section 1. Repeal.) Section 6-03-40.1 of the North Dakota Century Code is hereby repealed.

Approved February 22, 1969.

CHAPTER 109

H. B. No. 108
(Aamoth)

INCLUSION OF CAPITAL NOTES AND
DEBENTURES IN CAPITAL

AN ACT

To amend and reenact section 6-03-42 of the North Dakota Century Code, relating to capital notes or debentures included in capital; retirement of banking associations.

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

Section 1. Amendment.) Section 6-03-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-42. Capital Notes or Debentures Included in Capital — Retirement.) The term "capital" as used in this title shall embrace the amount of outstanding capital notes and debentures legally issued by any banking institution. The capital stock of a banking institution shall be unimpaired when the amount of such capital notes and debentures as represented by sound assets exceeds the impairment as found by the state examiner. The state examiner must approve of any retirement of any capital notes or debentures, and may require the bank to issue some other form of capital before retiring the capital notes or debentures.

Approved March 6, 1969.

CHAPTER 110

H. B. No. 102
(Hoghaug)

**EXCHANGE OF BANKS' PREFERRED STOCK
FOR CAPITAL OBLIGATIONS**

AN ACT

To amend and reenact section 6-03-46 of the North Dakota Century Code, relating to exchange of preferred stock for capital notes or debentures.

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

Section 1. Amendment.) Section 6-03-46 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-46. Exchange of Preferred Stock for Capital Notes or Debentures.) Any banking institution, after first obtaining the consent and approval of the state examiner, may exchange its preferred stock for its capital notes or debentures.

Approved March 5, 1969.

CHAPTER 111

S. B. No. 209
(Nothing, Forkner, Stroup)

INVESTMENT IN GOVERNMENT-SECURED LOANS AND
OBLIGATIONS

AN ACT

To amend and reenact section 6-03-47 of the North Dakota Century Code, relating to investment in loans and obligations secured by federal and state government.

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

Section 1. Amendment.) Section 6-03-47 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-47. Investment in Loans and Obligations Secured by Federal or State Government.) Banks, trust companies, the Bank of North Dakota, building and loan associations, insurance companies, and other organizations in this state whose mortgage lending is regulated by law are authorized to make, buy, or sell any loan, advances of credit, and obligations representing loans and advances of credit that are insured or guaranteed, or where there is a commitment to insure or guarantee, in part or in full, or conditionally, by the United States, its instrumentalities, this state, or its instrumentalities.

Approved March 13, 1969.

CHAPTER 112

S. B. No. 207
(Nething, Forkner, Stroup)

INVESTMENT IN GOVERNMENT
SECURED OBLIGATIONS

AN ACT

To repeal section 6-03-47.1 of the North Dakota Century Code, relating to investment in loans secured by federal or state government.

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

Section 1. Repeal.) Section 6-03-47.1 of the North Dakota Century Code is hereby repealed.

Approved March 13, 1969.

H. B. No. 445
(Bunker)

**LOANS TO OFFICERS AND
DIRECTORS OF BANKS**

AN ACT

To amend and reenact section 6-03-60 of the North Dakota Century Code, relating to loans to and purchases from directors, officers, and employees, restrictions, conditions, penalty and civil liability.

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

Section 1. Amendment.) Section 6-03-60 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-60. Loans To and Purchases from Directors, Officers, and Employees — Restrictions — Conditions — Penalty — Civil Liability.) No director, officer, or employee of any state banking association, nor the state examiner, nor any deputy, shall be permitted to borrow any of the funds of any state banking association without first obtaining the approval of a majority of the board of directors of said banking association, excluding from such majority any director whose application is to be acted upon, and no action upon any loan herein provided for shall be taken by the board in the presence of the applicant. Every loan provided for herein shall be upon like and equal security, required of other borrowers and shall be in strict conformity with the association's rules and regulations. No officer of any state banking association shall borrow from or otherwise become indebted to any state banking association of which he is an officer in an aggregate amount exceeding ten thousand dollars for any loan or extension of credit, other than a loan secured by a first mortgage on his residence. At no time shall any combination of loans or extensions of credit or both made by a state banking association to an officer of that association exceed an aggregate amount of thirty thousand dollars.

No director, officer, or employee of a bank shall sell to such bank, directly or indirectly, any mortgage, bond, note, stock, or other property whatsoever without first obtaining the

written approval of the board of directors. The action of the board of directors in connection with the loans and discounts required under this section shall be made a matter of permanent record in the minute books of the banking association. Any shareholder, officer, or director of any banking association who knowingly shall violate the provisions of this section shall be held liable in his personal and individual capacity for all loss or damage which the association or any person shall sustain in consequence thereof and shall be guilty of a misdemeanor. The state examiner may require, at any time, the payment, or repurchase of loans, securities or obligations herein referred to.

Approved March 14, 1969.

CHAPTER 114

S.B. No. 128

(Jacobson, G. Larson, Nasset, Van Horn, Strinden, Pyle)

SETTLEMENT OF CHECKS AT PAR

AN ACT

Relating to banks and banking and relating to payment or settlement of checks.

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

Section 1.) Except as to any check sent to it as a special collection item, no bank shall settle any check drawn on it otherwise than at par when such check is presented by or through a Federal Reserve Bank, or the Bank of North Dakota.

Section 2.) This Act shall be effective July 1, 1971.

Approved February 22, 1969.

CHAPTER 115

H. B. No. 111
(Bunker, Hilleboe, Thompson, Lang)

SAVINGS BANKS

AN ACT

To repeal chapter 6-04 of the North Dakota Century Code, relating to savings banks.

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

Section 1. Repeal.) Chapter 6-04 of the North Dakota Century Code is hereby repealed.

Approved March 5, 1969.

CHAPTER 116

H. B. No. 56

(Davis, Giffey, Wagner)

(Recommended by Legislative Audit and
Fiscal Review Committee)**REQUIRED DEPOSIT FOR ANNUITY
OR TRUST COMPANY**

AN ACT

To amend and reenact section 6-05-04 of the North Dakota Century Code, relating to required deposits to be made before entering into or engaging in the activities of an annuity, safe deposit, surety, and trust company, and to provide for a right of action against the deposits.

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

Section 1. Amendment.) Section 6-05-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-05-04. Surety Deposit Investments Required—Securities in Which Investment May Be Made.) Every corporation organized under the provision of this chapter and not under the jurisdiction of the insurance commissioner and every foreign corporation before engaging in similar comparable activities excepting those foreign corporations qualified to act as surety or guarantor under the provisions of section 6-05-30 of the North Dakota Century Code within this state shall either deposit with the state treasurer or with any federal reserve bank, securities of the amount of at least fifty thousand dollars, and such deposit shall at no time be permitted to be less than said amount or less than one-sixth of the par value of the capital stock of the corporation, whichever is the greater, but no such corporation shall be required to deposit more than five hundred thousand dollars. Where such deposits are made with a federal reserve bank, the deposit certificate shall authorize the state treasurer to cause such deposits, in part or in whole, to be transferred to the state treasurer upon his demand. An original of such certificate of deposit shall be furnished to the state treasurer. The securities so deposited shall be:

1. Bonds of the United States or of the state of North Dakota;

2. Bonds of other states which shall have the approval of the state auditor and the state examiner;
3. Bonds or obligations of any township, school district, city, or county within this state, whose total bonded indebtedness does not exceed five percent of the then assessed valuation thereof;
4. Bonds or promissory notes secured by first mortgages or deeds of trust upon unencumbered real estate situated within the state of North Dakota worth two and one-half times the amount of the obligation so secured;
5. Obligations issued, assumed or guaranteed by international bank for reconstruction and development; or
6. United States treasury bills or notes or an agency thereof.

Section 2. Right of Action Against Deposit.) The security deposited with the state treasurer as provided in section 6-05-04 shall be held by the state treasurer for the benefit of any person making any transfer or deposit of money or property in the state of North Dakota to or with any trust company and who shall suffer loss or damage because of the breach of any trust committed by such trust company. Any judgment obtained by any such person from any court of competent jurisdiction may be satisfied from the security deposited with the state treasurer.

Approved March 12, 1969.

CHAPTER 117

H. B. No. 400

(Thompson)

**PUBLICATION OF ANNUAL REPORTS
TO STATE EXAMINER**

AN ACT

To repeal section 6-05-18 of the North Dakota Century Code, relating to annual reports to state examiner and publication.

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

Section 1. Repeal.) Section 6-05-18 of the North Dakota Century Code is hereby repealed.

Approved March 14, 1969.

CHAPTER 118

H. B. No. 191
(Sanstead, Emerson, Giffey)

SUPERVISION OF CREDIT UNIONS

AN ACT

To amend and reenact section 6-06-04, subsection 5a of section 6-06-06, and 6-06-14 of the North Dakota Century Code, relating to certificate of organization and bylaw amendments, investment of surplus funds, and loan limitations of credit unions.

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

Section 1. Amendment.) Section 6-06-04 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-04. Amendment of Certificate or Bylaws—Approval by State Credit Union Board.) The certificate of organization or bylaws of a credit union may be amended at a regular or special meeting of the members thereof. The proposed amendments must be fully set forth in the notice of the meeting at which the proposed amendments are to be submitted for action. Any amendment to the certificate of organization and any amendment to the bylaws must be approved by three-fourths of the members present at the meeting. Proposed amendments to the certificate of organization or the bylaws shall, before submission to members for adoption, be approved by the state credit union board, and shall become operative immediately upon approval of the membership of the credit union. The resolution containing the full text of any amendment of the certificate of organization, verified by the president and the treasurer of the credit union and approved by the state credit union board, shall be recorded in the office of the register of deeds of the county in which the principal place of business of the credit union is located and the register of deeds shall after recording of the amendment return it with his certificate of recording attached, and it shall be filed with the secretary of state for permanent record. The fee for filing the amendment with the secretary of state shall be five dollars. The applicants shall, within thirty days thereafter, provide the state examiner with a true and

correct copy of the amendment to the certificate of organization or the amendments to the bylaws.

Section 2. Amendment.) Subsection 5a of section 6-06-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-06. Powers of Credit Unions.) A credit union shall have the following powers:

5a. In bonds of the United States without limitation in securities issued as direct obligations by the United States government or any agency thereof and in any trust established for investing directly or collectively in such securities;

Section 3. Amendment.) Section 6-06-14 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-14. Loans—How Made—Security—Meetings and Duties of Credit Committee.) The credit committee shall have general supervision over all loans to members, and shall meet as often as may be necessary to perform its duties and at least once each month. Notice must be given to each member of the committee before any meeting is held. All applications for a loan shall be made on a form approved by the committee and shall set forth the purpose for which the loan is desired, the security, if any, which is offered, and such other data as the committee may require. No loan in excess of twenty-five hundred dollars shall be made without adequate security and security, under this section, shall include an assignment of shares or deposits, an endorsement made on the note by a responsible person, and such other security as the committee in its discretion may deem adequate. No loan shall be made unless it is approved by a majority of the entire committee and by all members of the committee who are present at the meeting at which the application is considered; except that the credit committee may appoint one or more loan officers, and delegate to him or them the power to approve loans up to the unsecured limit, or in excess of such limit if such excess is fully secured by unpledged shares. Each loan officer shall furnish to the credit committee a record of each loan approved or not approved by him within sev-

en days of the date of the filing of the application therefor. All loans not approved by a loan officer shall be acted upon by the credit committee. No individual shall have authority to disburse funds of the credit union for any loan which has been approved by him in his capacity as a loan officer. Not more than one member of the credit committee may be appointed as a loan officer.

Approved March 6, 1969.

CHAPTER 119

H. B. No. 278
(Bullis, Kelsch)

LIABILITY OF BANK EMPLOYEE FOR
PAYING OVERDRAFT

AN ACT

To repeal section 6-08-04 of the North Dakota Century Code, relating to penalties and liabilities of bank employees paying overdrafts.

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

Section 1. Repeal.) Section 6-08-04 of the North Dakota Century Code is hereby repealed.

Approved March 8, 1969.

CHAPTER 120

H. B. No. 413
(Gackle)

ISSUING CHECK WITHOUT
SUFFICIENT FUNDS

AN ACT

To amend and reenact section 6-08-16 of the North Dakota Century Code, relating to the issuing of a check without sufficient funds or credit.

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

Section 1. Amendment.) Section 6-08-16 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-08-16. Issuing Check or Draft Without Sufficient Funds or Credit—Notice—Time Limitation—Penalty.) 1. Any person who for himself or as the agent or representative of another, or as an officer or member of a firm, company, copartnership, or corporation makes or draws or utters or delivers any check, draft, or order for the payment of money upon a bank, banker, or depository, and at the time of such making, drawing, uttering or delivery, or at the time of presentation for payment if made within one week after the original delivery thereof, has not sufficient funds in or credit with such bank, banker, or depository to meet such check, draft, or order in full upon its presentation, shall be punished by a fine of not less than twenty-five dollars, and not more than two hundred fifty dollars, or by imprisonment in the county jail for not more than three months, or by both such fine and imprisonment. The word "credit" as used in this section shall mean an arrangement or understanding with the bank, banker, or depository for the payment of such check, draft, or order. The making of a postdated check knowingly received as such, or of a check issued under an agreement with the payee that the same would not be presented for payment for a time specified, shall not constitute a violation of this section. This section shall not be construed to nullify or supersede any of the provisions of chapter 12-38.

2. A notice of dishonor may be sent by the holder of the check upon dishonor, said notice to be in substantially the following form:

Notice of Dishonored Check

Date-----

Name of Issuer - - - - -

Street Address - - - - -

City and State - - - - -

You are according to law hereby notified that a check dated - - - - -, 19 - - -, drawn on the - - - - - Bank of - - - - - in the amount of - - - - - has been returned unpaid with the notation the payment has been refused because of nonsufficient funds. Within ten days from the receipt of this notice, you must pay or tender to - - - - - (Holder) sufficient moneys to pay such instrument in full. Such notice may also contain a recital of the penal provisions of this section.

The criminal complaint for the offense of issuing a check, draft, or money order without sufficient funds under this section must be executed within not more than ninety days after the dishonor by the drawee of said instrument for nonsufficient funds. The failure to execute a complaint within said time shall bar the criminal charge under this section.

Approved March 25, 1969.

S. B. No. 352
(Ringsak, Hernet, Nothing)

PRESIDENT OF BANK OF NORTH
DAKOTA

AN ACT

To amend and reenact sections 6-09-04, 6-09-05, 6-09-27 and 10-04-12.1 of the North Dakota Century Code and sections 21-10-02, 54-30-30, 54-30-32 and 54-30-33 of the 1967 Supplement to the North Dakota Century Code, making the chief executive of the Bank of North Dakota its president.

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

Section 1. Amendment.) Section 6-09-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09-04. Commission to Employ President and Employees—Expenditures Limited to Appropriations.) The industrial commission shall obtain such assistance as in its judgment may be necessary for the establishment, maintenance, and operation of the Bank. To that end, it shall appoint a president, and may appoint such subordinate officers and employees as it may judge expedient. It may constitute such president its general agent in respect to the functions of said Bank, but subject, nevertheless, in such agency, to the supervision, limitation, and control of the commission. It shall employ such contractors, architects, builders, attorneys, cashiers, tellers, clerks, accountants, and other experts, agents, and servants as in the judgment of the commission the interests of the state may require, and shall define the duties, designate the titles, and fix the compensation, within legislative appropriation, and the bonds of all such persons so engaged. Subject to the control and regulation of the commission, the president of the Bank shall appoint and employ such deputies, cashiers, tellers, and other subordinates, and such contractors, architects, builders, attorneys, clerks, accountants, and other experts, agents, and servants, as he, in his judgment, shall deem required by the interests of the Bank. The total compensation of such appointees and employees, together with other expenditures for the operation and maintenance of the Bank, shall remain within the

appropriation lawfully available in each year for such purpose. All officers and employees of the Bank engaged upon its financial functions, before entering upon their duties, shall furnish respectively good and sufficient bonds to the state in such amount and upon such conditions as the commission may require and approve. The bond of the president shall not be less than fifty thousand dollars, and such bond shall be filed with the secretary of state.

Section 2. Amendment.) Section 6-09-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09-05. Removal and Discharge of Appointees.) The industrial commission may remove and discharge any and all persons appointed in the exercise of the powers granted by this chapter, whether by the commission or by the president of the Bank, and any such removal may be made whenever in the judgment of the commission the public interests require it. All appointments and removals contemplated by this chapter shall be made as the commission shall deem fit to promote the efficiency of the public service.

Section 3. Amendment.) Section 6-09-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09-27. Civil Actions on Bank Transactions—Name of Parties—Service—Venue—Audit Board Provisions Inapplicable.) Civil actions may be brought against the state of North Dakota on account of causes of action claimed to have arisen out of transactions connected with the operation of the Bank of North Dakota upon condition that the provisions of this section are complied with. In such actions, the state shall be designated as "The State of North Dakota, doing business as the Bank of North Dakota," and the service of process therein shall be made upon the president of the Bank. Such actions may be brought in the same manner and shall be subject to the same provisions of law as other civil actions. Such action shall be brought, however, in the county where the Bank of North Dakota shall have its principal place of business, except as provided in sections 28-04-01, 28-04-02, 28-04-03, 28-04-04 and 28-04-06. The provisions of sections 54-14-01 and 54-14-06 shall not apply to claims against the state affected by the provisions of this section.

Section 4. Amendment.) Section 10-04-12.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-04-12.1. Board of Review.) There shall be a board of review consisting of the attorney general, secretary of state, and the president of the Bank of North Dakota, which shall consider appeals made from the final orders entered by the commissioner under section 10-04-12. Any person adversely affected by an order of the commissioner entered under section 10-04-12 may, within twenty days after the date of the entry of the order of the commissioner, make application to the board of review asking review of such order. The board of review shall act upon such request for review of the order of the commissioner and shall enter a decision thereon in writing within forty-five days after receipt of the application which decision shall be accompanied by a findings of fact and conclusions of law supporting such decision. Notice of decisions of such board shall be remitted to the person applying to the board for review and to the commissioner. Decisions of the board shall be made from the records and transcripts prepared during the hearings provided for in section 10-04-12 and any additional evidence that may be submitted in writing by the commissioner or aggrieved person to the board. A majority of the board shall constitute a quorum and shall be sufficient to render a decision upon matters before it. No person may appeal to the district courts under the provisions of section 10-04-13 until he has made application to the board of review pursuant to the provisions of this section, and until a decision has been rendered by such board.

Section 5. Amendment.) Section 21-10-02 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-10-02. Board—Powers and Duties.) The board shall be charged with the investment of the funds enumerated in section 21-10-06. It shall approve general types of securities for investment by these funds and set policies and procedures regulating securities transactions on behalf of the various funds. Representatives of the funds enumerated in section 21-10-06 may make recommendations to the board in regard to investments. The board or its designated agents shall be custodian of securities purchased on behalf of funds under the management of the board. The president of the Bank of

North Dakota shall be the investment director. Existing department facilities for making traditional investments within the state shall continue to function subject however to supervision and management of the board.

Section 6. Amendment.) Section 54-30-30 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-30-30. Transfer of Real Estate Bond Trust.) With the exception of funds controlled by the provisions of section 54-30-29, all contracts for deed, tracts of real property, leases and miscellaneous assets and things of value belonging to the state real estate bond trust and owned and held in the name of the state treasurer, as trustee for the state of North Dakota, together with future increments, accruals and recoveries coming, arising or resulting from any of such things, or from dealing therewith in whatever form, are each and all hereby transferred, assigned, conveyed and granted and shall be by the state treasurer delivered to the president of the Bank of North Dakota in Bismarck, North Dakota. This transfer is self executing; no evidence other than the provisions of this chapter shall be required to establish the fact of transfer of the title to the president of the Bank of North Dakota thereunder. Proper and sufficient delivery of all title documents shall be presumed. Everything received by the president of the Bank of North Dakota under the provisions hereof shall be accepted and held by him in trust with power of sale. Further transfer or releases may be made by the president of the Bank of North Dakota for and in the name of the state treasurer, as trustee for the state of North Dakota as his agent, substitute and total successor. The expense of protecting, managing and conducting the trust herein provided shall be a paramount charge on the whole thereof, subject to the needs of the real estate series bonds and interest thereon.

Section 7. Amendment.) Section 54-30-32 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-30-32. Management of the Trust.) During the intervals between remittances to the state treasurer for the state general fund, funds available therefor may be invested as other moneys of the Bank of North Dakota are invested. The president of the Bank of North Dakota shall collect upon and en-

force to the fullest extent all rights, things and properties belonging or accruing to the trust in his custody. He may foreclose mortgages by advertisement under power of sale in the manner that mortgages of the state school funds are foreclosed, and all remedies and procedures available to the state or any department thereof shall be available to him to protect, manage and conduct the trust. No special power of attorney nor affidavit as to attorney's fees shall be required.

Section 8. Amendment.) Section 54-30-33 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-30-33. Remittances to the State General Fund.) Following each calendar quarter for which the president of the Bank of North Dakota receives funds of said trust over and above costs and expenses of the Bank of North Dakota incident thereto and exceeding a proper portion of the regular bank appropriation and a reasonable reserve for contingencies, the Bank of North Dakota shall remit such funds to the state treasurer for deposit in the general fund of the state. Such remittances shall be deemed credited against money borrowed to service and pay real estate bonds of the state of North Dakota heretofore issued.

Approved March 4, 1969.

CHAPTER 122

S. B. No. 320
(Ringsak, Hernett, Nething)

**BANK OF NORTH DAKOTA'S LENDING
AND INVESTMENT POWERS**

AN ACT

To amend and reenact section 6-09-15 of the 1967 Supplement to the North Dakota Century Code, relating to lending and investment powers of the Bank of North Dakota:

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

Section 1. Amendment.) Section 6-09-15 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09-15. Bank May Transfer Funds to Other State Departments—Loans—Real Estate Loans Limited.) The Bank of North Dakota may transfer funds to other departments, institutions, utilities, industries, enterprises, or business projects of the state, and such funds shall be returned with interest to the Bank. It may make loans to counties, cities, or other political subdivisions of the state, or to state or national banks, and may participate with state or national banks in loans being made by them, on such terms and under such rules and regulations as the industrial commission may determine. It may invest its funds in bonds, notes or debentures of any corporation duly incorporated under the laws of any state of the United States rated at "A" or higher by a nationally recognized rating service approved by the industrial commission, provided that such investments shall not be made to exceed forty percent of the combined capital, surplus and undivided profits of the Bank. It shall not otherwise make loans or give its credit to any individual, association, or private corporation, except that it may make loans to actual farmers who are residents of this state, if such loans are secured by duly recorded first mortgages on real estate in the state of North Dakota in amounts not to exceed one-half the value of the security and except United States insured and guaranteed loans as specifically authorized by law. The Bank, however, shall not loan more than thirty percent of its capital, nor in addition thereto, more than twenty percent of its deposits on real estate security.

Approved March 4, 1969.

CHAPTER 123

S. B. No. 373
(Goldberg)

UTILIZING RESOURCES OF
BANK OF NORTH DAKOTA FOR
INDUSTRIAL DEVELOPMENT

AN ACT

To provide for the enactment of authority to the industrial commission of North Dakota to further utilize the resources of the Bank of North Dakota, including its potential contacts and deposits in several of the large financial centers of the United States for the purpose of enlisting the help of private enterprise in exploring ways and means of creating more opportunities for increased employment and an expanded tax base in the rural and urban areas in each of the fifty-three counties of North Dakota.

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

Section 1. Declaration and Finding of Public Purpose.) The legislative assembly of the state of North Dakota hereby declares and adopts a policy of enlisting the help of private enterprise to create more employment, production, and purchasing power for its citizens and an enlarged tax base, and finds that it is and has been its purpose in operating and adopting the provisions of this chapter to sanction and authorize the expansion of the activities of the Bank of North Dakota and to encourage more active use of the purposes for which the Bank of North Dakota was created.

Section 2. Additional Authority and Public Policy Granted to the Governor of North Dakota Related to the Bank of North Dakota.) The governor of North Dakota shall appoint an advisory board of directors of five persons knowledgeable in banking and finance and in motivating the expansion of industry within and without the state of North Dakota to the Bank of North Dakota. The governor shall appoint a chairman, vice chairman, and secretary of such board and shall define their duties. Terms shall be for periods of from one to four years. The industrial commission shall fix compensation for the board on a daily or monthly basis.

Section 3. Authority Granted to the Advisory Board of Directors of the Bank of North Dakota in the Declaration of

Policy for That Board.) The advisory board of the Bank of North Dakota shall formulate recommendations to the industrial commission of North Dakota relative to the establishment of additional objectives for the operation of the Bank of North Dakota, including the sponsoring, coordination, and assistance to the activities of public officials and private individuals in creating a long-term first mortgage industrial development capital pool of one hundred million dollars; and such advisory board shall act in behalf of the Bank of North Dakota in such other capacity as may be approved by the industrial commission of North Dakota.

Section 4. Minimum Standards To Be Followed by the Bank of North Dakota in Sponsoring a First Mortgage Industrial Development Capital Pool of One Hundred Million Dollars in Cooperation With Private Lenders for the Expansion or Creation of Additional Manufacturing Plants.) The Bank of North Dakota is hereby directed to sponsor with private lenders a statewide program for the expansion or creation of additional enterprises engaged in or to be engaged in the assembling, fabricating, manufacturing, mixing, or processing of any agricultural, mineral, or manufactured product or any combination thereof, first mortgage loans to companies or sponsoring parent corporations who have been in business for at least five years and who can furnish certified balance sheets and profit and loss statements showing an operating profit for at least three consecutive years prior to the date of the loan application.

Approved March 25, 1969.