

# HEALTH AND SAFETY

## CHAPTER 223

HOUSE BILL NO. 1107  
(Committee on Social Welfare)  
(At the request of the Health Department)

### HEALTH STATISTICS ACT

AN ACT to provide for the responsibilities of the state department of health relative to health statistics and the registration of vital events, and providing for a penalty; and to repeal Chapter 23-02 of the North Dakota Century Code.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. DEFINITIONS.) As used in this Act:

1. "Dead body" means a lifeless human body or parts of such body or bones thereof from the state of which it may reasonably be concluded that death recently occurred;
2. "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy; the death is indicated by the fact that after such expulsion or extraction the fetus does not breathe or show any evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles;
3. "Filing" means the presentation of a certificate, report, or other record provided for in this Act of a birth, death, fetal death, adoption, marriage, divorce, or other event as specified by the state health officer for registration by the state registrar;
4. "Final disposition" means the burial, interment, cremation, removal from the state, or other disposition of a dead body or fetus;
5. "Health statistics" means data derived from records of birth, death, fetal death, marriage, divorce, or other records relating to the health of the populace or the state of the environment;
6. "Institution" means any establishment, public or private, which provides inpatient medical, surgical, or diagnostic care or treatment, or nursing, custodial, or domiciliary

care to two or more individuals unrelated by blood, or to which persons are committed by law;

7. "Live birth" means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, which after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached;
8. "Physician" means a person authorized or licensed to practice medicine or osteopathy pursuant to chapter 43-17;
9. "Registration" means the acceptance by the state registrar and incorporation into official records of certificates, reports, or other records provided for in this Act, of birth, death, fetal death, marriage, divorce, or other records as may be determined by the state health officer;
10. "System of health statistics tabulation and analysis" includes the tabulation, analysis, and presentation or publication of statistical data derived from health statistics; and
11. "System of vital records registration" includes the registration, collection, preservation, amendment, and certification of records of birth, death, fetal death, marriage, divorce, or other records as may be determined necessary by the state health officer or his designee.

SECTION 2. OFFICE OF STATISTICAL SERVICES.) There is hereby established in the state department of health an office of statistical services which shall install, maintain, and operate a system of health statistics tabulation and analysis and a system of vital records registration throughout the state. At his discretion, the state health officer may create within the office of statistical services such working divisions as may be necessary to comply with the provisions of this Act and shall appoint the directors of such divisions in accordance with the merit system laws and regulations of the state of North Dakota.

SECTION 3. DIRECTOR OF THE OFFICE OF STATISTICAL SERVICES AND ASSOCIATIVE DUTIES, STATE AND DEPUTY STATE REGISTRARS.) The state health officer shall appoint a director of the office of statistical services, in accordance with the merit system laws and regulations of the state of North Dakota, who shall be the ex-officio state registrar of vital statistics. The deputy state registrar of vital statistics shall also be appointed by the state health officer. The director of the office of statistical services shall administer and enforce this Act and the rules and regulations issued hereunder, and issue instructions for the efficient administration of a statewide system of health statistics tabulation and analysis and a statewide system of vital records registration. The

director of the office of statistical services may delegate such functions and duties vested in him to the officers and employees of the office of statistical services as he deems necessary and expedient.

SECTION 4. DUTIES OF THE STATE DEPARTMENT OF HEALTH.) The state department of health is authorized to adopt, amend, and repeal rules and regulations for the purposes of carrying out the provisions of this Act, in accordance with section 28-32.

SECTION 5. DUTIES OF THE STATE REGISTRAR.)

1. The state registrar shall:
  - a. Direct and supervise the statewide system of vital records and registration and be the primary custodian of said records;
  - b. Direct, supervise, and control the activities of local registrars and the activities of other local officials related to the operation of the vital records registration system; and
  - c. Prescribe, with the approval of the state department of health, and distribute such forms as required by this Act and the rules and regulations issued hereunder.
2. The deputy state registrar shall possess the powers of the state registrar during his absence, upon his delegation, upon his inability to act, or during the time there is a vacancy in the office.

SECTION 6. REGISTRATION DISTRICTS.) Each county of this state shall constitute a registration district for purposes of this Act, and the clerk of each district court in this state is hereby designated as a local registrar. The local registrar may appoint one or more deputy local registrars for each registration district.

SECTION 7. DUTIES OF LOCAL REGISTRARS.)

1. The local registrar, with respect to his registration district, shall:
  - a. Administer and enforce the provisions of this Act and instructions, rules, and regulations issued hereunder; and
  - b. Require that certificates be completed and filed in accordance with the provisions of this Act and the rules and regulations issued hereunder;
  - c. Transmit monthly the certificates, reports, or other returns filed with him to the state registrar or more frequently when directed to do so by the state registrar

2. In accordance with the regulations issued hereunder, the deputy local registrar shall perform the duties of the local registrar in the absence or incapacity of such local registrar and shall perform such other duties as may be prescribed.
3. The local registrar may appoint one or more suitable and proper persons to act as subregistrars. Each licensed funeral home shall be entitled to have one of its staff members appointed as a subregistrar for all registration districts served by that funeral home.

SECTION 8. DUTIES OF SUBREGISTRARS.) A subregistrar may receive death certificates and issue burial-transit permits for those registration districts served by the funeral home he is employed by. He shall note on each certificate over his signature the date upon which it was filed and shall forward the same to the local registrar within twenty-one days after death. The subregistrar shall be subject to the supervision and control of the state registrar and may be removed by the state registrar for reasonable cause. He shall be subject to the same penalties for neglect of duties as is the local registrar.

SECTION 9. COMPENSATION OF LOCAL REGISTRARS.)

1. Each local registrar shall be paid the sum of twenty-five cents for each certificate of birth, death, or fetal death registered by him and transmitted to the state registrar in accordance with the rules and regulations issued hereunder
2. If no birth, death, or fetal death is registered by him during any calendar month, the local registrar shall report that fact to the state registrar and be paid the sum of twenty-five cents.

SECTION 10. PAYMENT OF FEES TO THE LOCAL REGISTRAR.) The state registrar shall certify to the county auditors the number of birth, death, and fetal death certificates registered by each local registrar, with the names of the local registrars and the amount due; upon such certification, the fees due the local registrar shall be paid by the auditor of the county out of the general fund of the county.

SECTION 11. FORM OF CERTIFICATES.) The form of the certificates, reports, and other returns required by this Act shall be subject to the approval of and modification by the state department of health. In order to maintain uniformity in the system of vital records registration and the system of health statistics tabulation and analysis, substantial efforts should be made to ensure that information collected parallels that collected by other primary registration areas.

SECTION 12. DATE OF REGISTRATION.) Each certificate, report, and other form required to be filed under this Act shall have

entered upon its face the date of registration duly attested.

SECTION 13. BIRTH REGISTRATION.)

1. A certificate of birth for each live birth which occurs in this state shall be filed with the local registrar of the district in which the birth occurs within seven days after such birth and shall be registered by such registrar if it has been completed and filed in accordance with this section; provided, that when a birth occurs on a moving conveyance, a birth certificate shall be filed in the district in which the child is first removed from the conveyance.
2. When a birth occurs in an institution, the person in charge of the institution or his designated representative shall obtain the personal data, prepare the certificate, secure the signatures required by the certificate and file it with the local registrar. The physician, in attendance shall certify to the facts of birth and provide the medical information required by the certificate within six days after the birth.
3. When a birth occurs outside an institution, the certificate shall be prepared and filed by one of the following in the indicated order of priority:
  - a. The physician in attendance at or immediately after the birth, or in the absence of such a person; or
  - b. Any other person in attendance at or immediately after the birth, or in the absence of such a person;
  - c. The father, the mother, or in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred.
4.
  - a. If the mother was married either at the time of conception or birth and indicates that her husband at that time is the natural father of the child, the name of the husband shall be entered on the certificate as the father of the child unless paternity has been determined otherwise by a court of competent jurisdiction in which case the name of the father as determined by the court shall be entered;
  - b. If the mother was married either at the time of conception or birth and indicates that her husband at that time is not the natural father of the child, the name of the father of the child and the name of the husband will not be entered on the certificate of birth without the written consent of the mother and the person to be named as father or unless a determination of paternity has been made by a court of competent jurisdiction, in which case the name of the

- father as determined by the court shall be entered;
- c. If the mother was not married either at the time of conception or birth, the name of the father shall not be entered on the certificate of birth without the written consent of the mother and the person to be named as father or unless a determination of paternity has been made by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered;
  - d. If the mother was not married either at the time of conception or the time of birth, the child's surname shall be shown on the birth certificate as the legal surname of the mother at the time of birth unless an affidavit or an acknowledgment of paternity signed by both parents is received stating the surname to be that of the father; and
  - e. In the case of a child born out of wedlock, the certificate shall be filed directly with the state registrar.

SECTION 14. INFANTS OF UNKNOWN PARENTAGE - FOUNDLING REGISTRATION.)

1. Whoever assumes custody of a living infant of unknown parentage shall report on a form and in the manner prescribed by the state registrar within seven days to the local registrar of the district in which the child was found, the following information:
  - a. The date and place of finding;
  - b. Sex, color, or race, and approximate age of child and approximate date of birth;
  - c. Name and address of the persons or institution with whom the child has been placed for care;
  - d. Name given to the child by the custodian; and
  - e. Other data required by the state registrar.
2. The place where the child was found shall be entered as the place of birth and the date of birth shall be determined by approximation.
3. A report registered under this section shall constitute the certificate of birth for the infant.
4. If the child is identified and a certificate of birth is found or obtained, any report registered under this section shall be sealed and filed and may be opened only by order of a court of competent jurisdiction or as

provided by regulation.

SECTION 15. DELAYED REGISTRATION OF BIRTH.)

1. When the birth of a person born in this state has not been registered, a certificate may be filed in accordance with the regulations of the state department of health. Such certificate shall be registered subject to such evidentiary requirements as the state department of health shall prescribe to substantiate the alleged facts of birth.
2. Certificates of birth registered one year or more after the date of occurrence shall be marked "delayed" and show on their face the date of delayed registration.
3. A summary statement of the evidence submitted in support of the delayed registration shall be endorsed on the certificate.
4. a. When an applicant does not submit the minimum documentation required in the regulations for delayed registration or when the state registrar finds reason to question the validity or adequacy of the certificate or documentary evidence, the state registrar shall not register the delayed certificate and shall advise the applicant of the reasons for this action. In the event that the deficiencies are not corrected, the state registrar shall advise the applicant of his right of appeal to a court of competent jurisdiction for a judicial determination of the birth facts.  
b. The state department of health may by regulation provide for the dismissal of an application which is not actively prosecuted.

SECTION 16. DELAYED REGISTRATION OF DEATH.) When a death occurring in this state has not been registered within the time period specified in section 15, a certificate may be filed in accordance with regulations of the state department of health.

1. Such certificates shall be registered subject to such evidentiary requirements as the state department of health shall by regulation prescribe to substantiate the alleged facts of death.
2. Certificates of death registered one year or more after the date of occurrence shall be marked "delayed" and shall show on their face the date of delayed registration.

SECTION 17. COURT REPORTS OF ADOPTION.)

1. For each adoption decreed by any court in this state, the court shall require the preparation of a report of adoption on a form prescribed and furnished by the state registrar. The report shall include such facts as are

necessary to locate and identify the certificate of birth for the person adopted; provide information necessary to establish a new certificate of birth for the person adopted; and shall identify the order of adoption and be certified by the clerk of court.

2. Information in the possession of the petitioner necessary to prepare the adoption report shall be furnished with the petition for adoption by each petitioner for adoption or his attorney. The department of social services or other persons concerned shall supply the court with such additional information as may be necessary to complete the report. The provision of such information shall be a prerequisite to the issuance of a final decree.
3. Whenever an adoption decree is amended or annulled, the clerk of court shall prepare a report thereof, which shall include the facts necessary to identify the original adoption report and the facts amended in the adoption decree as shall be necessary to properly amend the birth record.
4. Not later than the fifth day of each calendar month, the clerk of court shall forward to the state registrar reports of decrees of adoptions, annulment of adoption, or amendments thereof entered in the preceeding month, together with such related reports as the state registrar shall require.
5. When the state registrar shall receive a report of adoption or annulment of adoption or amendment thereof from a court for a person born outside this state, such report shall be forwarded to the appropriate registration authority in the state of birth.

SECTION 18. NEW CERTIFICATES OF BIRTH FOLLOWING ADOPTION, LEGITIMATION, AND PATERNITY DETERMINATION.)

1. The state registrar shall establish a new certificate of birth for a person born in this state when he receives the following:
  - a. An adoption report as provided in section 17 or a certified copy of the decree of adoption together with the information necessary to identify the original certificate of birth and to establish a new certificate of birth; except that a new certificate of birth shall not be established if so requested by the court decreeing the adoption, the adoptive parents, or the adoptive person; or
  - b. A request that a new certificate be established and such evidence as required by rules and regulations proving that such person has been legitimated, or that a court of competent jurisdiction has determined the paternity of such person.

2. When a new certificate of birth is established, the actual place and date of birth shall be shown. The new certificate of birth shall be substituted for the original certificate of birth:
  - a. Thereafter, the original certificate of birth and the evidence of adoption, paternity, or legitimation shall not be subject to inspection except upon order of a court of competent jurisdiction or as provided by rules and regulations; and
  - b. Upon receipt of a notice of annulment of adoption, the original certificate of birth shall be restored to its place in the files and the new certificate of birth and evidence shall not be subject to inspection except upon order of a court of competent jurisdiction.
3. If no certificate of birth is on file for the person for whom a new certificate of birth is to be established under this section, an original certificate of birth shall be filed with the state registrar in accordance with the appropriate rules and regulations promulgated by the state department of health. The new certificate is also to be prepared on the standard certificate of birth form or the delayed birth certificate form in use at the time of the adoption, legitimation, or paternity determination.
4. When a new certificate of birth is established by the state registrar, all copies of the original certificate of birth in the custody of any custodian of permanent local records in the state shall be sealed from inspection or forwarded to the state registrar, as he shall direct.

SECTION 19. DEATH REGISTRATION.)

1. A death certificate for each death which occurs in this state shall be filed with the local registrar of the district in which the death occurred within fifteen days after such death and shall be registered by such registrar if it has been completed and filed in accordance with this section, provided:
  - a. That if the place of death is unknown, a death certificate shall be filed in the registration district in which a dead body is found within fifteen days after such occurrence; or
  - b. That if a death occurs on a moving conveyance, a death certificate shall be filed in the registration district in which the dead body was first removed from the conveyance.

2. The funeral director or person acting as such who first assumes custody of a dead body shall file the death certificate. He shall obtain the personal data from the next of kin or the best qualified person or source available. He shall obtain the medical certification of cause of death from the person responsible therefor.
3. The medical certification shall be completed and signed within fifteen days after death by the physician in charge of the patient's care for the illness or condition which resulted in death except when inquiry is required by the local health officer or coroner.
4. When death occurred without medical attendance as set forth in paragraph 3 or when inquiry is required by the local health officer or coroner, the county coroner shall investigate the cause of death and shall complete and sign the medical certification within fifteen days after taking charge of the case.
5. If the cause of death cannot be determined within fifteen days after death, the medical certification may be filed after the prescribed period, as required by and in accordance with regulations promulgated by the state department of health. The attending physician or coroner shall give the funeral director in custody of the body notice of the reason for the delay, and final disposition shall not be made until authorized by the attending physician or coroner.
6. When a death is presumed to have occurred within this state but the body cannot be located, a death certificate may be prepared by the state registrar upon receipt of findings of a court of competent jurisdiction, including the personal data and medical data required to complete the death certificate. Such a death certificate shall be marked "presumptive" and shall show on its face the date or registration and shall identify the court and the date of the decree.

#### SECTION 20. FETAL DEATH REGISTRATION.)

1. A fetal death certificate for each fetal death which occurs in this state after a gestation period of twenty completed weeks or more or of less than twenty completed weeks of gestation where provided by rules and regulations of the state department of health shall be filed with the local registrar of the district in which the delivery occurred within fifteen days after such delivery, and shall be registered by such registrar if it has been completed and filed in accordance with this section, provided:
  - a. That if the place of fetal death is unknown, a fetal death certificate shall be filed in the registration district in which the dead infant is found within

fifteen days after the time of finding; or

- b. That if a fetal death occurs in a moving conveyance, a fetal death certificate shall be filed in the registration district in which the fetus was first removed from the conveyance.
2. The funeral director or person acting as such who first assumes custody of a fetus shall file the fetal death certificate. In the absence of such a person, the physician or other person in attendance at or after delivery shall file the certificate of fetal death. He shall obtain the personal data from the next of kin or the best qualified person or source available. He shall obtain the medical certification of cause of death from the person responsible therefor.
3. The medical certification shall be completed and signed by the physician in attendance at the delivery within fifteen days after the delivery except when inquiry is required by the local health officer or coroner.
4. When inquiry is required by the local health officer or coroner or in the absence of medical attendance, the county coroner shall investigate the cause of fetal death and sign the medical certification within fifteen days after taking charge of the case.
5. If the cause of fetal death cannot be determined within fifteen days after death, the medical certification may be filed after the prescribed period of time, as required by and in accordance with rules and regulations promulgated by the state department of health. The attending physician or coroner shall give the funeral director in custody of the fetus the notice of the reason for the delay, and final disposition shall not be made until authorized by the attending physician or coroner.
6. The provision for entering the name of the father of the fetus on the fetal death certificate and the reporting of out of wedlock fetal deaths concur exactly with those set forth in section 13, subsection 4, subdivision a-e.

#### SECTION 21. PERMITS.)

1. The funeral director or person acting as such who first obtains custody of a dead body or fetus, shall obtain a burial-transit permit prior to final disposition or removal from this state of the body or fetus.
2. Such burial-transit permits shall be issued by the local registrar or subregistrar of the district where the certificate of death or fetal death will be filed in accordance with the requirements of sections 19 and 20.

3. A burial-transit permit issued under the laws of another state which accompanies a dead body or fetus brought into this state shall be authority for final disposition of the body or fetus in this state.
4. A permit for disinterment and reinterment shall be required prior to disinterment of a dead body or fetus except as authorized by regulations or otherwise provided by law. Such permit shall be issued by the state registrar to a licensed embalmer upon proper application.

SECTION 22. EXTENSION OF TIME.)

1. The state department of health may, by regulation and upon such conditions as it may prescribe to assure compliance with the purposes of this Act, provide for the extension of the periods of time prescribed in sections 19, 20, and 21 for the filing of death certificates, fetal death certificates, medical certification of cause of death, and for the obtaining of burial-transit permits in cases in which compliance with the applicable prescribed period would result in undue hardship.
2. Regulations of the state department of health may provide for the issuance of a burial-transit permit under section 21 prior to the filing of a certificate of death or fetal death upon conditions designed to assure compliance with the purposes of this Act in cases in which compliance with the requirement that the certificates be filed prior to the issuance of the permit would result in undue hardship.

SECTION 23. MARRIAGE REGISTRATION.)

1. A record of each marriage performed in this state shall be filed with the state registrar as provided in this section.
2. The officer who issues the marriage license shall prepare the certificate on the form prescribed and furnished by the state registrar upon the basis of information obtained from the parties to be married, who shall attest to information by their signatures.
3. Every person who performs a marriage shall certify the fact of marriage and file the record with the officer who issued the license within seven days after the ceremony.
4. Every officer issuing a marriage license shall complete and forward to the state registrar on or before the fifth day of each calendar month, a copy of the marriage records specified in subsection 1 for marriages filed with him during the preceding calendar month.

SECTION 24. COURT REPORTS OF DIVORCE AND ANNULMENT OF MARRIAGE.)

1. For each divorce and annulment of marriage granted by any court in this state, a report shall be prepared and filed by the clerk of court with the state registrar. The information necessary to prepare the report shall be furnished, with the petition, to the clerk of court by the parties or their legal representatives on forms prescribed and furnished by the state registrar.
2. On or before the fifth day of each month, the clerk of court shall forward to the state registrar the report of each divorce and annulment granted during the preceding calendar month and such related reports as may be required by regulations issued under this Act.

SECTION 25. CORRECTION AND AMENDMENT OF VITAL RECORDS.)

1. A certificate or record registered under this Act may be amended only in accordance with this Act and regulations thereunder adopted by the state department of health to protect the integrity and accuracy of vital records.
2. A certificate that is amended under this section shall be marked "amended" except as provided in subsection 4 of this section. The date of amendment and a summary description of the evidence submitted in support of the amendment shall be endorsed on or made a part of the record. The state department of health shall prescribe by regulation the conditions under which additions or minor corrections shall be made to birth certificates within one year after the date of birth without the certificate being considered as amended.
3. Upon receipt of a certified copy of a court order changing the name of a person born in this state and upon request of such person or his parent, guardian, or legal representative, the state registrar shall amend the certificate to reflect the new name.
4. Upon receipt of a sworn acknowledgment of paternity of a child born out of wedlock signed by both parents and upon request, the state registrar shall amend a certificate of birth to show such paternity if paternity is not shown on the certificate. Upon request of the parents, the surname of the child shall be changed on the appropriate certificate to that of the father. Such certificates shall not be marked as "amended". The provisions of this paragraph apply also in their entirety to certificates of fetal death.

SECTION 26. REPRODUCTION OF RECORDS.) To preserve original documents, the state registrar is authorized to prepare typewritten, photographic, or other reproductions of original records and files

in his office. Such reproductions when certified by him shall be accepted as the original record.

SECTION 27. DISCLOSURE OF RECORDS.)

1. To protect the integrity of vital records, to ensure their proper use, and to ensure efficient and proper administration of the system of vital records registration, it shall be unlawful for any person to permit inspection of or to disclose information contained in vital records, or to copy or issue a copy of all or part of any such record except as authorized by regulations.
2. The state department of health may authorize the disclosure of data contained in vital records for research purposes.
3. Information in vital records indicating that a birth or fetal death occurred out of wedlock shall not be disclosed except as provided by regulation or upon order of a court of competent jurisdiction.

SECTION 28. COPIES OF DATA FROM VITAL RECORDS.) In accordance with section 27 of this Act, and the regulations adopted pursuant thereto:

1. The state registrar shall upon request issue a certified copy of any certificate or record in his custody or a part thereof. Each copy issued shall show the date of registration; and copies issued from records marked "delayed", "amended", or "court order" shall be similarly marked and show the effective date of filing.
2. A certified copy of a certificate or any part thereof issued in accordance with subsection 1 of this section shall be considered evidence of the facts of birth stated therein, provided that the evidentiary value of a certificate or record filed more than one year after the event, or a record which has been amended, shall be determined by the judicial or administrative body or official before whom the certificate is offered as evidence.
3. Data or copies may be furnished for statistical purposes to federal, state, local, or other public or private agencies including the federal agency responsible for national vital statistics, upon such terms and conditions as may be prescribed by the state department of health through rules and regulations adopted pursuant to this Act.
4. No person shall prepare or issue any certificate which purports to be an original, certified copy, or copy of a certificate of birth, death, or fetal death, except as provided in this Act, or regulations adopted hereunder.

## SECTION 29. FEES.)

1. The state department of health shall prescribe the fees, if any, not to exceed two dollars, to be paid for the following:
  - a. Each certified copy of a certificate or record.
  - b. Each certified statement of the facts of birth other than a copy of the original birth certificate.
  - c. Each filing of a new certificate of birth or fetal death following adoption, legitimation, or determination of paternity.
  - d. Each filing of a delayed certificate of birth or death except as provided for in subsection 3 of section 18.
  - e. A search of the files or records when no copy is made.
2. Fees collected under this section by the state registrar shall be deposited in the general fund of this state, according to procedures established by the state treasurer.

## SECTION 30. PERSONS REQUIRED TO KEEP RECORDS.)

1. Every person in charge of an institution as defined in this Act shall keep a record of personal particulars and data concerning each person admitted or confined to such institution. This record shall include such information as required by the standard certificate of birth, death, and fetal death forms issued under the provisions of this Act. The record shall be made at the time of admission from information provided by such person, but when it cannot be obtained from said person, the same shall be obtained from relatives or other persons acquainted with the facts. The name and address of the person providing the information shall be a part of the record.
2. When a dead body or fetus is released or disposed of by an institution, the person in charge of the institution shall keep a record showing the name of the deceased, date of death, name and address of the person to whom the body is released, date of removal from the institution, or if finally disposed of by the institution, the date, place, and manner of disposition shall be recorded.
3. A funeral director, embalmer, or other person who removed from the place of death or transports or finally disposes of a dead body or fetus, in addition to filing any certificate or other form required by this Act, shall

keep a record which shall identify the body, and such information pertaining to his receipt, removal, and delivery of such body as may be prescribed in regulations adopted by the state department of health;

4. Records maintained under this section shall be made available to the state registrar or his representative for inspection upon demand;
5. On the fifth day of each month, each funeral director, embalmer, or person acting as such in this state shall report to the state registrar, on forms provided for this purpose, information required by the state registrar regarding each dead body or fetus handled by such person during the preceding calendar month.

SECTION 31. DUTIES TO FURNISH INFORMATION RELATIVE TO VITAL EVENTS.) Any person having knowledge of the facts shall furnish such information as he may possess regarding any birth, death, fetal death, marriage, or divorce upon demand of the state registrar.

SECTION 32. PENALTIES.)

1. a. Any person who willfully and knowingly makes any false statement in a report, record, or certificate required to be filed under this Act, or in application for an amendment thereof, or who willfully and knowingly supplies false information intending that such information be used in the preparation of any such report, record, or certificate, or amendment thereof; or
- b. Any person who, without lawful authority and with the intent to deceive, makes, alters, or mutilates any report, record, or certificate required to be filed under this Act or a certified copy of such report, record, or certificate; or
- c. Any person who willfully and knowingly uses or attempts to use or to furnish to another for use, for any purpose of deception, any certificate, record, report, or certified copy thereof so made, altered, amended, or mutilated; or
- d. Any person who with the intention to deceive willfully uses or attempts to use any certificate of birth or certified copy of a record of birth knowing that such certificate or certified copy was issued upon a record which is false in whole or in part or which relates to the birth of another person; or
- e. Any person who willfully and knowingly furnishes a certificate of birth or certified copy of a record of birth with the intention that it be used by a

person other than the person to whom the record of birth relates;

shall be guilty of a class A misdemeanor.

2. a. Any person who refuses to provide information required by this Act; or
- b. Any person who knowingly transports or accepts for transportation, interment, or other disposition of a dead body or fetus without an accompanying permit as provided in this Act; or
- c. Any person who willfully neglects or violates any of the provisions of this Act or refuses to perform any of the duties imposed upon him by this Act;

shall be guilty of an infraction.

SECTION 33. SHORT TITLE.) This Act may be cited as the "Health Statistics Act".

\*SECTION 34. REPEAL.) Chapter 23-02 of the North Dakota Century Code is hereby repealed.

Approved March 27, 1975

\*NOTE: Section 23-02-14 was amended by section 220, section 23-02-27 was amended by section 221, section 23-02-33 was amended by section 222, sections 23-02-34 and 23-02-41 were also repealed by section 673, section 23-02-42 was amended by section 223, and section 23-02-43 was amended by section 224 of Senate Bill No. 2039, chapter 106.

## CHAPTER 224

HOUSE BILL NO. 1093  
(Eagles)

## INOCULATIONS

AN ACT to provide for a safe level of immunization for the people of North Dakota against diphtheria, pertussis, tetanus, measles (rubeola), rubella, mumps, and poliomyelitis; and to repeal section 23-07-17 of the North Dakota Century Code, relating to compulsory vaccination or inoculation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

## SECTION 1. INOCULATION REQUIRED BEFORE ADMISSION TO SCHOOL.)

1. No child shall be admitted to any public, private, or parochial elementary school, or day care center, child care facility, head start program, or nursery school operating in North Dakota unless such child's parent or guardian presents to the school authorities a certification from a licensed physician or authorized representative of the state department of health that such child has received immunization against diphtheria, pertussis, tetanus, measles (rubeola), rubella, mumps, and poliomyelitis.
2. A child may enter school upon submitting written proof from a licensed physician stating that he has started receiving the required immunization or has a written consent by the child's parent or guardian for a local health service or department to administer the needed immunization without charge.
3. The immunizations required, and the procedure for their administration, as prescribed by the state department of health, shall conform to recognized standard medical practices in the state. The state department of health shall administer the provisions of this Act and shall promulgate rules and regulations in the manner prescribed by chapter 28-32 for the purpose of administering this Act.
4. The list of diseases in subsection 1 may be revised through regulations by the state department of health upon the development of a nationally recognized effective vaccine against a disease.

5. Any minor child, through his parents or guardian, may submit to the school authorities a certificate from a licensed physician stating that the physical condition of the child is such that immunization would endanger the life or health of the child and the minor child shall then be exempt from the provisions of this Act.
6. Before any child is immunized the school authorities shall notify the parent or guardian of their right to refuse such immunization.

SECTION 2. REPEAL.) Section 23-07-17 of the North Dakota Century Code is hereby repealed.

Approved March 20, 1975

## CHAPTER 225

SENATE BILL NO. 2057  
(Lee, L. Christensen, Fritzell, Walsh)  
(From Legislative Council Study)

### DISINFECTING SECONDHAND GOODS REPEAL

AN ACT to repeal sections 23-12-01 and 23-12-02 of the North Dakota Century Code, relating to the disinfecting of second-hand goods.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

\*SECTION 1. REPEAL.) Sections 23-12-01 and 23-12-02 of the North Dakota Century Code are hereby repealed.

Approved March 7, 1975

\*NOTE: Section 23-12-02 was also repealed by section 673 of Senate Bill No. 2039, chapter 106.

## CHAPTER 226

SENATE BILL NO. 2224  
(Jones)

## FACILITIES FOR THE HANDICAPPED

AN ACT to create and enact two new sections to chapter 23-13 of the North Dakota Century Code, to require a handrail in certain public toilets, and to provide certain other facilities for physically handicapped persons in public toilets in buildings or facilities constructed or remodeled after the effective date of the bill.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1.) A new section to chapter 23-13 of the North Dakota Century Code is hereby created and enacted to read as follows:

HANDRAIL IN TOILET STALLS.) To promote the health and safety of all physically handicapped persons and to make all toilet facilities used by the public accessible to, and functional for, the physically handicapped, all public buildings and facilities and all buildings and facilities held open to the public and used for public assemblages of any character in this state, including theaters, public halls, city halls, courthouses, factories, hotels, shopping centers, and all other public buildings wherein numbers of persons are employed or are in the habit of meeting together for any purpose, shall have at least one toilet stall that has a handrail, if the toilet stall is accessible from the main entrance of the building or facility without having to climb or descend stairs.

SECTION 2.) A new section to chapter 23-13 of the North Dakota Century Code is hereby created and enacted to read as follows:

BUILDINGS AND FACILITIES CONSTRUCTED OR REMODELED AFTER EFFECTIVE DATE TO COMPLY WITH STANDARDS.) To promote the health and safety of all physically handicapped persons and to make all buildings and facilities used by the public which are constructed or remodeled after the effective date of this Act, accessible to, and functional for, the physically handicapped, toilet rooms in all public buildings and facilities and in all buildings and facilities held open to the public which shall be constructed or remodeled after the effective date of this Act shall have toilet rooms that

shall have sufficient space to allow traffic of individuals in wheelchairs.

Toilet rooms in all public buildings and facilities and in all buildings and facilities held open to the public and used for public assemblages of any character in this state, including theaters, public halls, city halls, courthouses, factories, hotels, shopping centers, and all other public buildings wherein numbers of persons are employed or are in the habit of meeting together for any purpose, which shall be constructed after July 1, 1975, shall have at least one toilet stall that:

1. Is three feet wide;
2. Is at least four feet eight inches deep;
3. Has a door, where doors are used, that is thirty-two inches wide and swings out;
4. Has handrails on each side, thirty-three inches high and parallel to the floor, one and one-half inches in outside diameter, with one and one-half inches clearance between rail and wall, which is fastened securely at ends and center; and
5. Has a water closet with the seat twenty inches from the floor.

Approved April 9, 1975

## CHAPTER 227

SENATE BILL NO. 2120  
(Committee on Political Subdivisions)  
(At the request of the Health Department)

## DISBURSING HEALTH DISTRICT FUNDS

AN ACT to amend and reenact section 23-14-11 of the North Dakota Century Code, relating to the authorizing and disbursing of health district funds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 23-14-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-14-11. HEALTH FUND - HOW PROVIDED.) All salaries, mileage, compensation, and expenses provided for herein shall be paid as the salaries, mileage, compensation, and expenses of other county officers now are paid, out of a health district fund as follows:

1. The district board of health, as provided in this chapter, shall prepare a budget for the next fiscal year at the time at which and in the manner in which a county budget is adopted and it shall be submitted to the joint board of county commissioners for approval. The amount budgeted and approved shall be prorated, in health districts composed of more than one county, among the various counties in the health district according to the assessed valuation of the respective counties comprising the said health district, and shall be certified by the district health board to the respective county auditors of such counties within ten days thereafter, and shall be included in the levies of such counties. The amount called for in the budget shall not exceed the amount which can be raised by a levy of one and one-half mills on the assessed valuation. Such levy shall not be subject to the limitation on county tax levy for general and special county purposes, and the amount derived therefrom shall be placed in a special health fund. The health fund shall be deposited with and disbursed by the treasurer of the district board of health, and all counties comprising the health district shall remit and make settlements with such treasurer quarterly. Any funds remaining at the end of any fiscal year may be carried over to the next fiscal year;
2. All claims against the district health fund shall be audited by the district board of health or by the president and secretary of the board when authorized or delegated by the board, and shall be paid from the district health fund by the treasurer and approved or ratified by the district board of health at its quarterly meetings.

Approved March 12, 1975

## CHAPTER 228

SENATE BILL NO. 2412  
(H. Christensen, Redlin, Reiten)

### MODEL ROCKETS

AN ACT to provide for standards for the regulation of model rockets and model rocket launch sites, and to provide for the reporting of model rocket accidents to the fire marshal, and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. PURPOSE.) It is hereby declared to be the purpose of the legislative assembly to establish standards for model rockets and model rocket launch sites for the protection of individuals involved in and exposed to the launching of model rockets.

SECTION 2. DEFINITIONS.) As used in this chapter, unless the context or subject matter otherwise requires:

1. "Model rockets" shall mean nonprofessional rockets which are propelled by approved commercially manufactured solid propellant engines and shall not be considered "fireworks" as defined by section 23-15-01.
2. "Model rocket engine" shall mean a commercially manufactured, nonreusable rocket propulsion device constructed of a nonmetallic casing and solid propellant wherein all of the ingredients are self-contained so as not to require mixing or handling by the user. The propellant charge shall not exceed 2.2 ounces per engine. Such engine shall not be considered "fireworks" as defined by section 23-15-01.
3. "User" shall include an individual, partnership, firm, company, association, or corporation.
4. "One newton" shall equal 3.6 ounces or .225 pound.

SECTION 3. MODEL ROCKET STANDARDS.) Model rocket design and construction standards shall comply with the following:

1. The model rocket engine shall be a commercially manufactured propellant device and shall not contain more than 2.2 ounces of propelling charge and shall produce

- less than 80 newton-seconds of total impulse with a thrust duration of not less than .05 second.
2. When more than one rocket engine is used, the total propelling charge shall not exceed 4.5 ounces.
  3. The model rocket engine used must display on the casing:
    - a. Total propulsive power category;
    - b. Time delay; and
    - c. Average thrust in newtons.
  4. The rocket shall be constructed of paper, plastic, rubber, or wood, except that minor components such as screw eyes and motor mounts may be of light gauge metal material.
  5. The rocket shall include within its construction an effective means for returning the rocket safely to the ground without causing injury to persons or property.
  6. The entire weight of the finished rocket with any payload shall not exceed 1.1 pounds.
  7. The model rocket shall not contain any type of explosive or pyrotechnic warhead.

SECTION 4. LAUNCH SITE STANDARDS.) Sites used as model rocket launch sites shall comply with the following:

1. No person other than the user and individuals assisting him shall be permitted within fifteen feet of the launching device when engines of an "A", "B", or "C" category are used and not within thirty feet of the launching device when engines of "D", "E", or "F" category are used.
2. When required by the fire authority, lines or barriers shall be provided to restrain spectators from encroaching upon the clearance requirements of this section.
3. No model rocket user shall fire any model rocket engine from any site without first securing authorization, either verbal or written, to conduct this activity from the fire official having the responsibility of the prevention and suppression of fire in the areas where the model rocket is to be used nor without securing authorization, either written or verbal, of the owner of the land intended to be used for the launch of the model rocket.
4. The launch site should consist of a firing area and a recovery area. The firing area should be considered

that area surrounding the launching devices contained within a radius of ten feet outward from the location of the launching devices. The recovery area should include the firing area and shall be determined to be the minimum area necessary to retrieve the launched rocket based on the estimated height achieved by the model rocket having a total weight fired with a specific type of engine. The following table may be used to determine the size of the recovery area necessary:

MODEL ROCKET LAUNCH SITE STANDARDS

Engine types all time delays	Minimum dimension in feet	Maximum total weight in ounces of rocket with engine and any payload	Longest time delay in seconds permitted for maximum total weight
1/4A-1/2A	50	3	2
A	100	4	3
B	200	6	2
C	400	6	3
D	500	13	3
E	1,000	17.66	4
F	1,000	17.66	4

If the recovery area is circular, the minimum dimension in feet referred to in the table shall relate to diameter of the area. If the recovery area is rectangular or square, the minimum dimension in feet referred to in the table shall refer to the length of the shortest side.

5. The launching site and recovery area should be located in areas that are not susceptible to fire, such as grain fields, forest lands, heavy brush, or other areas deemed dangerous by the fire authority. The site should be located at least two hundred feet from any buildings or structures unless approved by the property owner. The site shall not contain any high voltage lines or be within five hundred feet of the nearest road or highway.
6. The launch rod shall not be tilted more than thirty degrees from a vertical angle.
7. No launching site or recovery area shall be located within five miles of any airport, unless written permission is first obtained from the appropriate airport authority, or other agency responsible for operation of the airport.

SECTION 5. STORAGE AND SALE.)

1. No model rocket engines shall be stored, sold, or offered for sale at retail unless such model rocket engine has been classified into one of the standardized engine codes

listed in the chart in section 5 of this Act and unless such code is marked upon the model rocket engine.

2. No model rocket engine will be sold, given, or delivered to any person under ten years of age. Model rocket engines bearing the standardized engine coding 1/4A, 1/2A, A, B, C, or D may be purchased by any persons who are ten years of age or older. Model rocket engines bearing the standardized engine coding E or F may be purchased only by persons who are fourteen years of age or over.

SECTION 6. ACCIDENT REPORTING.) In the event of an accident involving damage to either persons or property by a model rocket or by a model rocket engine, it shall be the responsibility of the investigating authority to immediately notify the state fire marshal, or local fire control authorities, that such accident has occurred. If local fire control authorities are notified, they shall notify the fire marshal as soon as practicable.

SECTION 7. PENALTY.) Any person who shall violate any provisions of this Act shall be guilty of a class C misdemeanor.

Approved April 8, 1975

## CHAPTER 229

HOUSE BILL NO. 1532  
(Nicholas, Farrington, Scofield, Meiers, Powers)

## COMMUNITY CLINICS

AN ACT to create and enact section 23-18.1-01 of the North Dakota Century Code, relating to the authorization to establish tax-supported county clinic associations; and to amend and reenact sections 23-18-02, 23-18-04, 23-18-05, 23-18-06, 23-18-07, and 23-18-08 of the North Dakota Century Code, relating to the form of ballot used to authorize a county hospital association, the handling of the tax revenue of the mill levy for a county hospital association, the disbursement of county hospital association funds, authorization of receipt of donations for such association, the sale or disposal of the hospital building of the hospital association, and the limitation on the number of county hospital associations organized under chapter 23-18, and providing for an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 23-18.1-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

23-18.1-01. CLINIC ASSOCIATIONS AUTHORIZED.) A county or community clinic association may be established in any county in this state, subject to the provisions, requirements, and benefits provided in section 23-18-01 pertaining to hospital associations. The establishment of such county or community clinic association shall be neither dependent upon nor exclusive of the establishment of a county or community hospital association, and any county in this state may establish one of each or one of either of such associations.

SECTION 2. AMENDMENT.) Section 23-18-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-18-02. FORM OF BALLOT.) The ballot to be used in such election as provided for in this chapter shall be in the following form:

Shall the county commissioners be authorized to levy a tax in aid of a nonsectarian county or community hospital (or in aid of a nonsectarian county or community clinic)

of \_\_\_\_\_ mills upon the assessed  
valuation of all taxable property in \_\_\_\_\_ county,  
for a period of \_\_\_\_\_ years?  
Yes \_\_\_\_\_  
No \_\_\_\_\_

SECTION 3. AMENDMENT.) Section 23-18-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-18-04. PROCEEDS OF TAX PLACED IN SPECIAL FUND - USE.) The proceeds of the tax provided for by this chapter shall be placed in a separate fund by the county treasurer and shall be used exclusively for the construction and equipment of a nonsectarian county or community hospital, or of a nonsectarian county or community clinic, as applicable, and shall be kept separate and apart from the other moneys of the county.

SECTION 4. AMENDMENT.) Section 23-18-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-18-05. DISBURSEMENT OF FUNDS.) Proper vouchers may be presented by the hospital association, or by the clinic association, to the board of county commissioners and with the approval of the board the county auditor shall draw warrants on the separate fund in payment of such vouchers.

SECTION 5. AMENDMENT.) Section 23-18-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-18-06. DONATIONS.) All persons desirous of making donations of money, personal property, or real estate for the benefit of the hospital or for the benefit of the clinic, may vest the same in the board of directors of the hospital association or in the board of directors of the clinic association, as applicable. The board of directors shall hold and control all property accepted for the use of the hospital, or for the clinic, as a special trustee.

SECTION 6. AMENDMENT.) Section 23-18-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-18-07. SALE OR DISPOSAL OF HOSPITAL OR CLINIC - LIMITATIONS.) The board of directors of any county or community hospital, or of any county clinic, shall not lease, sell, or otherwise dispose of a county or community hospital, or of a county or community clinic, without the unanimous consent of the county commissioners unless all tax money received by the hospital association, or by the clinic association, has been repaid to the county without interest.

SECTION 7. AMENDMENT.) Section 23-18-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-18-08. COUNTY AID LIMITED TO ONE OF EACH OF SUCH NON-PROFIT ASSOCIATIONS.) The aid provided for in this chapter shall not be granted to more than one county or community hospital association, nor to more than one county or community clinic association, in any one county nor to any association organized for profit.

SECTION 8. 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 25, 1975

## CHAPTER 230

HOUSE BILL NO. 1418  
(Fleming, Olson, McGauvran, Mushik)

## COUNTY NURSING HOMES

AN ACT to provide for the construction and operation of county nursing homes by county nursing home authorities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. DECLARATION OF LEGISLATIVE POLICY AND PURPOSE.)

It is hereby declared that a serious shortage of safe and sanitary nursing home accommodations for persons whose need for combined nursing care, lodging, and board cannot readily be provided by the ordinary unaided operations of private enterprise, exists in many communities throughout this state; that there is a need for governmental participation in the construction, acquisition, reconstruction, rehabilitation, and operation of low-cost nursing home accommodations, including such other facilities as may be incidental and appurtenant thereto; and that it shall be the policy of this state to encourage private enterprise to make every effort to provide such services to the citizens of this state.

It is further found and declared that the powers conferred by this Act are for public uses and purposes for which public money may be expended.

SECTION 2. DEFINITIONS.) As used in this Act, unless the context or subject matter otherwise requires:

1. "Nursing home" means such institutions or facilities defined by subsection 3 of section 43-34-01, with the exception of those institutions or facilities administered by state government or any agency or political subdivision thereof, but including those institutions or facilities constructed, acquired, leased, or rehabilitated under the provisions of this Act, and also including any institution or facility defined by and included in section 50-18-01.
2. "Nursing home project" or "project", as the case may be, means a specific work or improvement, including lands, buildings, fixtures, and articles of personal property acquired, constructed, rehabilitated, managed, owned, or operated pursuant to this Act to provide nursing home accommodations, board, and nursing care to sick, invalid, infirm, disabled, or convalescent persons.

**SECTION 3. CREATION OF NURSING HOME AUTHORITY BY ELECTION.)**

When a petition signed by not less than twenty percent of the qualified electors of the county, as determined by the vote cast for the office of governor at the last preceding gubernatorial election, requesting an election upon the establishment of a nursing home authority is presented to the board of county commissioners, the board of county commissioners shall submit the question to the electors of the county at the next countywide election. Upon approval by sixty percent of the votes cast, the board of county commissioners shall establish a county nursing home authority as described in sections 3 through 7 of this Act with all its powers, including the powers to issue bonds and certify a tax levy as described in sections 16 and 12, respectively.

**SECTION 4. COMMISSIONERS OF AUTHORITY - APPOINTMENT, COMPENSATION, QUALIFICATIONS, TENURE.)** Upon an affirmative vote of the county electors in the election required by section 3 of this Act, the board of county commissioners shall appoint five persons as commissioners for the authority created in such county. The commissioners who are first appointed shall be designated to serve for terms of one, two, three, four, and five years, respectively, from the date of their appointment, and thereafter, each commissioner shall be appointed for a term of five years, except that all vacancies shall be filled for the unexpired term. No commissioner of an authority may be an officer or an employee of the county for which the authority is created. A commissioner shall hold office until his successor has been appointed and has qualified. A commissioner shall receive compensation in the amount provided in subsection 1 of section 54-35-10, and shall be reimbursed for mileage and expenses in the amounts provided by sections 44-08-04 and 54-06-09.

**SECTION 5. OFFICERS OF AUTHORITY, ELECTION - QUORUM.)** The commissioners of the authority shall elect annually from its membership a chairman and vice chairman. Three commissioners shall constitute a quorum for the purpose of conducting the business of the authority.

**SECTION 6. POWER OF COMMISSIONERS OF AUTHORITY.)** The powers of any county nursing home authority shall be vested in the commissioners of the authority. The authority may delegate to one or more of its agents or employees such powers and duties as the authority may deem proper.

**SECTION 7. EMPLOYEES OF AUTHORITY - DUTY OF STATE'S ATTORNEY - LEGAL ASSISTANTS.)** The commissioners of the authority may employ a secretary, who shall be the executive director of the authority, and such technical experts, and other officers, agents, and employees as it shall deem necessary. The commissioners shall determine the qualifications of all persons employed and their duties and compensation. For such legal services as may be required, the commissioners may call upon the state's attorney of their county, or they may employ counsel or a legal staff for the authority.

SECTION 8. COMMISSIONER OR EMPLOYEE SHALL NOT HAVE INTEREST IN NURSING HOME OR PROPERTY TO BE USED.) No commissioner or employee of an authority shall acquire any direct or indirect interest in any nursing home project or in any property included or planned to be included in any project, nor have any direct or indirect interest in any contract or proposed contract for materials or services to be furnished or used in connection with any nursing home. If any commissioner or employee of an authority owns or controls a direct or indirect interest in any property included or planned to be included in any nursing home, he immediately shall disclose the same in writing to the authority, and such disclosure shall be entered upon the minutes of the authority. Failure to disclose such interest shall constitute misconduct in office.

SECTION 9. REMOVAL OF COMMISSIONERS.) A commissioner of an authority may be removed by the board of county commissioners of the county wherein the authority is located. A commissioner may be removed for inefficiency, neglect of duty, or misconduct in office. A commissioner may be removed only after he shall have had an opportunity to be heard upon the charges. A copy of the charges shall be served upon the commissioner at least ten days before the date fixed for the hearing. In the event of the removal of any commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the county auditor.

SECTION 10. POWERS AND DUTIES OF AUTHORITY.) An authority shall have the following powers and may exercise the following duties:

1. To exercise public and essential governmental functions;
2. To sue and be sued;
3. To have perpetual succession;
4. To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority;
5. To make, amend, and repeal such bylaws, rules, and regulations, not inconsistent with the provisions of this Act, as are necessary to carry into effect the powers and purposes of the authority;
6. To construct, acquire, lease, and operate nursing homes within its area of operation;
7. To provide for the construction, reconstruction, improvement, alteration, or repair of any nursing home, or any part thereof, within its area of operation;
8. To arrange or contract for the furnishing by any person or any public or private agency of services, privileges,

- works, or facilities for, or in connection with, a nursing home project or the occupants thereof;
9. To include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractor shall comply with requirements as to minimum wages and maximum hours of labor and any conditions which the federal government may have attached to its financial aid of the project;
  10. To lease or rent any dwellings, houses, accommodations, lands, buildings, structures, or facilities embraced in any nursing home project and, subject to the limitations contained in this Act, to establish and revise the rents or charges therefor;
  11. To own, hold, and improve real or personal property;
  12. To purchase, lease, obtain options upon, or acquire, by gift, grant, bequest, devise, or otherwise, any real or personal property or any interest therein;
  13. To certify a mill tax as provided in section 12;
  14. To sell, lease, exchange, transfer, or dispose of any real or personal property, or any interest therein;
  15. To insure, or provide for the insurance of, any real or personal property, or any operation of the authority, against any risks or hazards;
  16. To invest any funds held by it in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control;
  17. To purchase its bonds at a price not more than the principal amount thereof and accrued interest, and all bonds so purchased shall be canceled;
  18. To engage in research, studies, and experimentation on the subject of nursing homes within its area of operation;
  19. To conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information;
  20. To administer oaths, issue subpoenas requiring the attendance of witnesses or the production of books and papers, and to issue commissions for the examinations of witnesses who are outside of the state or unable to attend before the authority or who are excused from attendance;
  21. To issue bonds from time to time for construction of nursing homes or the making of capital improvements thereon;

22. To issue refunding bonds for the purpose of paying or retiring bonds previously issued by it;
23. To borrow money or accept grants or other financial assistance from the federal government for, or in aid of, any nursing home project within its area of operation;
24. To enter into joint functions pursuant to section 54-40-08, with any private nursing home company;
25. To comply with such conditions and to enter into such trust indentures, leases, or agreements as may be necessary, convenient, or desirable to carry out the provisions of this subsection and the preceding subsection;
26. To do any and all things necessary or desirable to secure the financial aid or cooperation of the federal government in the undertaking, construction, maintenance, or operation of any nursing home project;
27. To exercise all or any part or combination of powers herein granted; and
28. To exercise such other powers and duties as may be necessary to carry out the purposes and provisions of this Act.

An authority, in exercising the powers specified in subsections 19 and 20 of this section, may act through one or more of the commissioners or through other persons designated by it. No provision of law with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to an authority unless there shall be specific provision to that effect by the legislative assembly.

SECTION 11. AUTHORITY MAY CONTRACT WITH PRIVATE NURSING HOMES FOR SERVICES.) In addition to the other powers of an authority granted by the provisions of this Act, an authority shall have the power to contract with any nonprofit corporation, partnership, association, or other private nonprofit entity for nursing facilities to be used in addition to or in lieu of a county nursing home constructed by the authority. Such services may be paid for by the authority with the proceeds of any mill tax levied under this Act or other funds available to it for such purposes.

SECTION 12. TAX LEVY MAY BE CERTIFIED BY NURSING HOME AUTHORITY.) The nursing home authority may certify annually to the board of county commissioners a tax of not to exceed five mills upon the net taxable valuation of the property in the county for a "nursing home fund" which tax may be levied by the board of county commissioners in excess of the mill limit fixed by law for taxes for general county purposes. The proceeds of the tax collected in such fund shall be used first for the payment of principal and interest on any bonds, issued under the provisions of this Act, which may be due or about to become due. The remaining proceeds in such fund may also be used for any other corporate purpose of the authority,

including but not limited to costs of operation and costs of obligations entered into with private nursing homes.

SECTION 13. RENTALS TO BE AT LOWEST POSSIBLE RATE - AUTHORITY NOT TO BE OPERATED FOR PROFIT.) Each nursing home authority shall manage and operate its nursing homes in an efficient manner so as to enable it to fix the rentals for accommodations and services at the lowest possible rates consistent with its providing decent, safe, and sanitary nursing accommodations and consistent with the provisions of section 14. No authority shall construct or operate any project for profit or as a source of revenue to the city or the county.

SECTION 14. RENTALS - HOW FIXED BY AUTHORITY - USE OF RENTAL FEES.) An authority shall fix the price of its accommodations and services in its nursing homes at no higher rates than it shall find to be necessary in order to produce revenues which, together with any remaining funds derived from the mill levy tax provided for in section 12, and all other available moneys, revenues, income, and receipts of the authority from whatever source derived, may be sufficient to meet the cost of, and provide for maintaining and operating, the projects of the authority including the cost of any insurance thereon, and the administrative expenses of the authority.

SECTION 15. PLANNING, ZONING, AND BUILDING LAWS.) All nursing home projects of an authority shall be subject to the planning, zoning, sanitary, and building laws, ordinances, and regulations applicable in the locality in which the housing project is situated. In the planning and location of any project, an authority shall take into consideration the relationship of the project to any larger plan or long-range program for the development of the area in which the authority functions.

SECTION 16. BONDS - TYPE WHICH MAY BE ISSUED.) An authority may issue such types of bonds as it may determine, provided that the interest and principal on any such bonds shall be payable first from the revenues derived from the mill tax levy authorized by this Act. The bonds and other obligations of the authority shall not be payable out of any other funds or properties other than those of the authority. In no event shall any bonds issued by a county nursing home authority be secured by a mortgage on the property of any nursing home project.

SECTION 17. BONDS - ISSUED PURSUANT TO RESOLUTION - GENERAL PROVISIONS.) Bonds of an authority shall be issued pursuant to a resolution of the commissioners thereof. Such resolution shall specify:

1. Whether such bonds shall be issued in one or more series;
2. The date or dates which the bonds shall bear;
3. The time or times at which the bonds shall mature;

4. The interest rate or rates resulting in an average annual net interest cost, not exceeding eight percent per annum, on those issues which are sold at private sale, which the bonds shall bear;
5. The denomination or denominations in which the bonds shall be issued;
6. The form, either coupon or registered, in which the bonds shall be issued;
7. The conversion or registration privileges, if any, which the bonds shall carry;
8. The rank or priority which shall exist between various issues of bonds and various kinds of bonds issued;
9. The manner in which the bonds shall be executed;
10. The medium in which the bonds shall be payable;
11. The place or places at which the bonds shall be payable; and
12. The terms of redemption, and whether with or without premium, to which the bonds shall be subject.

The conditions specified in the resolution may be printed in any trust indenture given by the authority to secure any bonds issued by it.

SECTION 18. BONDS - LIABILITY - TAX EXEMPT.) Neither the commissioners of an authority nor any person executing bonds of the authority shall be liable personally thereon by reason of the issuance thereof, nor shall any city, county, or state, or political subdivision thereof, be liable thereon. The bonds and other obligations of an authority shall not be a debt of the city, county, or state, nor of any political subdivision thereof, and shall so state on their face. They shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. Such bonds, together with the interest thereon and income therefrom, shall be exempt from taxation.

SECTION 19. SALE OF BONDS.) Except as hereinafter provided, bonds issued by an authority shall be sold at a public sale held after a notice has been published at least five days prior to the sale in a newspaper having a general circulation in the city or county, as the case may be, and in a financial newspaper published in the city of New York or in the city of Chicago. There shall be no interest rate ceiling on issues sold at public sale. Such bonds may be sold to the federal government, however, at private sale without public advertisement. Such bonds may also be sold at a private sale when such obligations do not exceed the total sum of one hundred thousand dollars. The bonds shall not be sold for less than ninety-eight percent of par.

SECTION 20. BONDS - VALIDITY WHEN OFFICER WHO SIGNS BOND IS NO LONGER IN OFFICE - DEEMED ISSUED FOR HOUSING PROJECT.) If any of the commissioners or officers of an authority whose signatures appear on any bonds or coupons cease to be such commissioners or officers before the delivery of the bonds, the signatures shall be valid and sufficient for all purposes the same as if the commissioners or officers had remained in office until the delivery had been completed. Any bonds issued pursuant to the provisions of the Act shall be fully negotiable. In an action, suit, or proceeding involving the validity or enforceability of any bond of an authority or of the security therefor, the bond shall be deemed conclusively to have been issued for a nursing home project if the bond recites that it has been issued by the authority to aid in financing a nursing home project to provide nursing home accommodations and services. The project conclusively shall be deemed to have been planned, located, and constructed in accordance with the purposes and provisions of this Act if such a statement is contained in the bond.

SECTION 21. PROVISIONS OF BONDS AND TRUST INDENTURES.) In connection with the issuance of bonds or the incurring of obligations under leases, and in order to secure the payment of such bonds or obligations, an authority, in addition to its other powers, shall have power:

1. To pledge all or any part of its gross or net rents, fees, taxes, or other revenues to which its right then exists or thereafter may come into existence;
2. To covenant against pledging all or any part of its rents, fees, taxes, and revenues to which its right or title then exists or thereafter may come into existence, or against permitting or suffering any lien on any such revenues;
3. To covenant with respect to limitations on its right to sell, lease, or otherwise dispose of any housing project or any part thereof;
4. To covenant as to what other or additional debts or obligations may be incurred by it;
5. To covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof;
6. To provide for the replacement of lost, destroyed, or mutilated bonds;
7. To covenant against extending the time for the payment of its bonds or interest thereon;
8. To redeem the bonds, to covenant for their redemption, and to provide the terms and conditions thereof;

9. To covenant, subject to the limitations contained in this Act, as to the rents and fees to be charged in the operation of a nursing home project or projects, the amount to be raised each year or other period of time by rents, fees, taxes, and other revenues, and as to the use and disposition to be made thereof;
10. To create, or to authorize the creation of, special funds for moneys held for construction or operating costs, debt service, reserves, or other purposes, and to covenant as to the use and disposition of the moneys held in such funds;
11. To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;
12. To covenant as to the use of any or all of its real or personal property;
13. To covenant as to the maintenance of its real and personal property, the replacement thereof, the insurance to be carried thereon, and the use and disposition of insurance moneys;
14. To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, condition, or obligation;
15. To covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become, or may be declared, due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived;
16. To vest in a trustee or trustees or in the holders of bonds, or any proportion of them, the right to enforce the payment of the bonds or any covenant securing or relating thereto;
17. To vest in a trustee or trustees the right, in the event of a default by the authority, to take possession and to use, operate, and manage any housing project or part thereof, to collect the rents and revenues arising therefrom, and to dispose of such moneys in accordance with the agreement of the authority with said trustee;
18. To provide for the powers and duties of a trustee or trustees and to limit the liabilities thereof;
19. To provide the terms and conditions upon which the trustee or trustees or the holders of bonds, or any

- proportion of them, may enforce any covenant or rights securing or relating to the bonds;
20. To exercise all or any part or combination of the powers herein granted;
  21. To make covenants other than, and in addition to, the covenants herein expressly authorized, of like or different character; and
  22. To make such covenants and to do any and all such acts and things as may be necessary, convenient, or desirable in order to secure its bonds, or, in the absolute discretion of said authority, as will tend to make the bonds more marketable notwithstanding that such covenants, acts, or things may not be enumerated herein.

SECTION 22. CERTIFICATION OF ATTORNEY GENERAL AS TO LEGALITY OF BONDS.) An authority may submit to the attorney general of this state any bonds to be issued hereunder after all proceedings for the issuance of such bonds have been taken. Upon the submission of such proceedings to the attorney general, he shall examine and pass upon the validity thereof and of the regularity of all proceedings in connection therewith. If such proceedings conform to the provisions of this Act and otherwise are regular in form, and if the bonds, when delivered and paid for, will constitute binding and legal obligations of the authority enforceable according to the terms thereof, the attorney general shall certify in substance upon the back of each of said bonds that it is issued in accordance with the Constitution and laws of the state of North Dakota.

SECTION 23. RIGHTS AND REMEDIES OF AN OBLIGEE OF AUTHORITY.) An obligee of an authority, in addition to all other rights which may be conferred on him, and subject only to any contractual restrictions binding upon such obligee, may:

1. By mandamus, suit, action, or proceeding at law or in equity, compel the authority and the commissioners, officers, agents, or employees thereof, to perform each and every term, provision, and covenant contained in any contract of the authority with or for the benefit of such obligee, and require the carrying out of any or all such covenants and agreements of said authority and the fulfillment of all duties imposed upon said authority by this chapter; and
2. By suit, action, or proceeding in equity, enjoin any act or thing which may be unlawful or in violation of any of the rights of such obligee of the authority.

SECTION 24. ADDITIONAL REMEDIES CONFERRABLE BY AUTHORITY ON OBLIGEE.) An authority, by its resolution, trust indenture, lease, or other contract, may confer upon any obligee holding or representing a specified amount in bonds, or holding a lease, in addition to

all rights that otherwise may be conferred, the right, upon the happening of an event of default as defined in such resolution or instrument, by suit, action, or proceeding, in any court of competent jurisdiction:

1. To obtain the appointment of a receiver of any project of said authority, or of any part thereof, and of the rents and profits therefrom. If such receiver is appointed, he may enter into and take possession of such project, or of any part thereof, and operate and maintain the same and collect and receive all fees, rents, revenues, or other charges thereafter arising therefrom, and he shall keep such moneys in a separate account or accounts and apply the same in accordance with the obligations of the authority as the court shall direct; and
2. To require the authority and the commissioners thereof to account as if it and they were the trustees of an express trust.

SECTION 25. EXEMPTION OF REAL PROPERTY FROM EXECUTION SALE.)

All real property of an authority shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall any judgment against any authority be a charge or lien upon its real property. The provisions of this section, however, shall not apply to nor limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by an authority on its rents, fees, taxes, or revenues.

SECTION 26. TAX EXEMPTIONS AND PAYMENTS IN LIEU OF TAXES.)

The property of an authority is declared to be public property used for essential public and governmental purposes and shall be exempt from all taxes and special assessments of the city, the county, the state, or any political subdivision thereof. In lieu of such taxes or special assessments, an authority may agree to make payments to the city, county, state, or any such political subdivision for improvements, services, and facilities furnished thereby for the benefits of a nursing home project, but in no event shall such payments exceed the estimated cost to such city, county, or political subdivision of the improvements, services, or facilities to be so furnished.

SECTION 27. REPORTS.) At least once every year, an authority shall file with the city auditor or county auditor, as the case may be, and with the state planning division, a report of its activities for the preceding year and shall make recommendations with reference to such additional legislation or other action as it deems necessary in order to carry out the purposes of this Act.

SECTION 28. MUNICIPALITIES MAY COOPERATE.) Any city, county, or other public body shall have the right and power to cooperate with nursing home authorities, or with the federal government, with respect to the development or administration of projects.

SECTION 29. COOPERATION BETWEEN AUTHORITIES.) Any two or more authorities may join or cooperate with one another in the exercise of any or all of the powers conferred upon them for the purpose of financing, planning, undertaking, constructing, or operating a nursing home project or projects located within the area of operation of any one or more of such authorities.

Approved April 8, 1975

## CHAPTER 231

HOUSE BILL NO. 1057  
(Atkinson, Langley, Rundle)  
(From Legislative Council Study)

## AIR POLLUTION CONTROL

AN ACT to create and enact sections 23-25-01.1 and 23-25-04.1 of the North Dakota Century Code, relating to the public policy on air pollution and relating to trade secrets; to amend and reenact section 23-25-01, subsection 6 of section 23-25-02, sections 23-25-03, 23-25-04, 23-25-05, 23-25-06, 23-25-08, and 23-25-10 of the North Dakota Century Code, relating to definitions, the power of the air pollution control advisory council, the powers and duties of the department of health, classification of air contaminant sources, on-site inspections, permits, notice of hearings, and enforcement; and to repeal sections 23-25-07 and 23-25-09 of the North Dakota Century Code, relating to emission control requirements and injunction proceedings; and providing a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 23-25-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-25-01. DEFINITIONS.) For purposes of this chapter, the following words and phrases are defined:

1. "Air contaminant" means any solid, liquid, gas, or odorous substance, or any combination thereof;
2. "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as is or may be injurious to human health, welfare, or property, animal or plant life, or which unreasonably interferes with the enjoyment of life, or property;
3. "Ambient air" means the surrounding outside air;
4. "Emission" means a release of air contaminants into the ambient air;

5. "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative agent or agency of the foregoing;
6. "Emission standard" means a limitation on the release of any air contaminant into the ambient air;
7. "Air quality standard" means an established concentration, exposure time, or frequency of occurrence of a contaminant or multiple contaminants in the ambient air which shall not be exceeded; and
8. "Indirect air contaminant source" means any facility, building, structure, or installation, or any combination thereof, which can reasonably be expected to cause or induce emissions of air contaminants.

SECTION 2.) Section 23-25-01.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

23-25-01.1. DECLARATION OF PUBLIC POLICY AND LEGISLATIVE INTENT.) It is hereby declared to be the public policy of this state and the legislative intent of this chapter to achieve and maintain the best air quality possible, consistent with the best available control technology, to protect human health, welfare, and property, to prevent injury to plant and animal life, to promote the economic and social development of this state, to foster the comfort and convenience of the people, and to facilitate the enjoyment of the natural attractions of this state.

SECTION 3. AMENDMENT.) Subsection 6 of section 23-25-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. The advisory council shall hold a public hearing to consider and recommend the adoption, amendment, or repeal of rules, regulations, and standards as provided in this chapter. Notice of such public hearing or hearings shall be given by publication of a notice of such hearing or hearings in each of the official county newspapers within the state of North Dakota by at least two publications, one week apart, the last publication being at least thirty days prior to the first hearing. The hearing or hearings shall be held in the state capitol in Bismarck and interested parties may present witnesses and other evidence pertinent and relevant to proposed rules, regulations, and standards. The advisory council shall consider any other matters related to the purposes of this chapter and may make recommendations on its own initiative to the department concerning the administration of this chapter.

SECTION 4. AMENDMENT.) Section 23-25-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-25-03. POWERS AND DUTIES.) The department shall:

1. Encourage the voluntary cooperation of persons or affected groups to achieve the purposes of this chapter;
2. Determine by scientifically oriented field studies and sampling the degree of air pollution in the state and the several parts thereof;
3. Encourage and conduct studies, investigations, and research relating to air pollution and its causes, effects, prevention, abatement, and control;
4. Advise, consult, and cooperate with other public agencies and with affected groups and industries;
5. Issue such orders as may be necessary to effectuate the purposes of this chapter and enforce the same by all appropriate administrative and judicial procedures;
6. Provide rules and regulations relating to the construction of any new direct or indirect air contaminant source or modification of any existing direct or indirect air contaminant source which the department determines will prevent the attainment or maintenance of any ambient air quality standard, and require that prior to commencing construction or modification of any such source, the owner or operator thereof shall submit such information as may be necessary to permit the department to make such determination;
7. Establish ambient air quality standards for the state which may vary according to appropriate areas;
8. Formulate and promulgate emission control requirements for the prevention, abatement, and control of air pollution in this state, including achievement of ambient air quality standards;
9. Hold hearings relating to any aspect or matter in the administration of this chapter, and in connection therewith, compel the attendance of witnesses and the production of evidence;
10. Require the owner or operator of a regulated air contaminant source to establish and maintain such records; make such reports; install, use and maintain such monitoring equipment or methods; sample such emissions in accordance with such methods, at such locations, intervals, and procedures; and provide such other information as may be required; and

11. Provide by rules and regulations a procedure for the handling of applications for the granting of a variance to any person who owns or is in control of any plant, establishment, process, or equipment. The granting of a variance shall not be a right of the applicant but shall be in the discretion of the department.

After consultation with the advisory council the department is empowered to adopt, amend, and repeal rules and regulations implementing and consistent with this chapter.

SECTION 5. AMENDMENT.) Section 23-25-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-25-04. CLASSIFICATION AND REPORTING OF AIR POLLUTION SOURCES.)

1. After consultation with the advisory council the department, by rule or regulation, may classify air contaminant sources according to levels and types of emissions and other criteria which relate to air pollution and may require reporting for any of such class or classes. Classifications made pursuant to this subsection may apply to the state as a whole or to any designated area of the state and shall be made with special reference to effects on health, economic, and social factors, and physical effects on property.
2. Any person operating or responsible for the operation of air contaminant sources of any class for which rules and regulations of the department require reporting shall make reports containing information as may be required by the department relevant to air pollution.

SECTION 6.) Section 23-25-04.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

23-25-04.1. PERMITS.)

1. No person shall construct, install, modify, use, or operate an air contaminant source designated by regulation, capable of causing or contributing to air pollution, either directly or indirectly, without a permit from the department or in violation of any conditions imposed by such permit.
2. The department shall provide for the issuance, suspension, revocation, and renewal of any permits which it may require pursuant to this section.
3. The department may require that applications for such permits shall be accompanied by plans, specifications, and such other information as it deems necessary.
4. Possession of an approved permit shall not relieve any person of the responsibility to comply with applicable emission limitations or with any other provision of law

or regulations adopted pursuant thereto.

5. The department by rule or regulation may prescribe and provide for the payment and collection of reasonable fees for the issuance of permits required pursuant to this section. Such fees shall be deposited in the general fund.

SECTION 7. AMENDMENT.) Section 23-25-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-25-05. RIGHT OF ON-SITE INSPECTION.)

1. Any duly authorized officer, employee, or agent of the department may enter and inspect any property, premise, or place on or at which an air contaminant source is located or is being constructed, installed, or established at any reasonable time for the purpose of ascertaining the state of compliance with this chapter and rules and regulations enforced pursuant thereto. If requested, the owner or operator of the premises shall receive a report setting forth all facts found which relate to compliance status.
2. The department may conduct tests and take samples of air contaminants, fuel, process material, and other materials which affect or may affect emission of air contaminants from any source, and shall have the power to have access to and copy any records required by department rules or regulations to be maintained, and to inspect monitoring equipment located on the premises. Upon request of the department the person responsible for the source to be tested shall provide necessary holes in stacks or ducts and such other safe and proper sampling and testing facilities exclusive of instruments and sensing devices as may be necessary for proper determination of the emission of air contaminants. If an authorized representative of the department, during the course of an inspection, obtains a sample of air contaminant, fuel, process material, or other material, he shall issue a receipt for the sample obtained to the owner or operator of, or person responsible for, the source tested.

SECTION 8. AMENDMENT.) Section 23-25-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-25-06. CONFIDENTIALITY OF RECORDS.)

1. Any record, report, or information obtained under this chapter shall be available to the public, except that upon a showing satisfactory to the department that the record, report, or information, or particular part thereof, other than emission data, to which the department has access under this chapter, if made public, would divulge trade secrets, the department shall consider the record, report, or information or particular portion thereof confidential in the administration of this chapter.

2. Nothing herein shall be construed to prevent disclosure of any report, or record of information to federal, state, or local agencies when necessary for purposes of administration of any federal, state, or local air pollution control laws, or when relevant in any proceeding under this chapter.

SECTION 9. AMENDMENT.) Section 23-25-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-25-08. ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.) Any proceeding under this chapter for:

1. The issuance or modification of rules and regulations including emergency orders relating to control of air pollution; or
2. Determining compliance with rules and regulations of the department,

shall be conducted in accordance with the provisions of chapter 28-32, and appeals may be taken as therein provided. Where an emergency exists requiring immediate action to protect the public health and safety, the department may, without notice or hearing, issue an order reciting the existence of such emergency and requiring that such action be taken as is necessary to meet this emergency. Notwithstanding any provision of this chapter, such order shall be effective immediately, but on application to the department an interested person shall be afforded a hearing before the state health council within ten days. On the basis of such hearing, the emergency order shall be continued, modified, or revoked within thirty days after such hearing. Except as provided for in this section, notice of any hearing held under this chapter shall be issued at least thirty days prior to the date specified for the hearing.

SECTION 10. AMENDMENT.) Section 23-25-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-25-10. ENFORCEMENT - PENALTIES - INJUNCTIONS.)

1. If, after the completion of the administrative hearing process, the department determines that a violation of this chapter, or any rule, regulation, or order of the department issued under this chapter, has occurred, it shall make all of its evidence and findings available to the attorney general for use in any remedial action his office determines to be appropriate, including an action for injunctive relief.
2. Any person who willfully violates this chapter or any permit condition or limitation implementing this chapter shall be punished by a fine of not more than twenty-five thousand dollars per day of violation, or by imprison-

ment in the county jail for not more than one year, or by both such fine and imprisonment. If the conviction is for a violation committed after a first conviction of such person under this subsection, punishment shall be by a fine of not more than fifty thousand dollars per day of violation, or by imprisonment in the county jail for not more than two years, or by both such fine and imprisonment.

3. Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter, shall, upon conviction, be punished by a fine of not more than ten thousand dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.
4. Any person who violates this chapter, or any permit condition or limitation implementing this chapter, and any person who violates any order issued by the department, shall be subject to a civil penalty not to exceed ten thousand dollars per day of such violation.

Nothing in this chapter shall be construed to deny use of the remedy of injunctive relief where it is deemed appropriate.

SECTION 11. REPEAL.) Sections 23-25-07 and 23-25-09 of the North Dakota Century Code are hereby repealed.

Approved March 9, 1975

## CHAPTER 232

HOUSE BILL NO. 1055  
(Rundle, Atkinson)  
(From Legislative Council Study)

## AIR POLLUTION CONTROL ADVISORY COUNCIL

AN ACT to amend and reenact subsection 2 of section 23-25-02 of the North Dakota Century Code, relating to the air pollution control advisory council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 2 of section 23-25-02 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. There is hereby established an air pollution control advisory council, hereinafter referred to as "the advisory council", of nine members to include the state health officer, the state geologist, the state highway commissioner, and six other members to be appointed by the governor, one of whom shall be a representative of county or municipal government, one a representative of the solid fuels industry, one a representative of the fluid and gas fuels industry, one a representative of the environmental sciences, and two appointed at large;

Approved February 28, 1975

## CHAPTER 233

HOUSE BILL NO. 1056

(Atkinson)

(From Legislative Council Study)

SOLID WASTE MANAGEMENT AND LAND  
PROTECTION ACT

AN ACT to provide for solid waste management and land protection, and providing a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. FINDING OF NECESSITY AND DECLARATION OF PURPOSE.)  
The legislature of the state finds that:

1. The people of North Dakota have a right to a clean environment, and the costs of maintaining a clean environment through the efficient environmentally acceptable management of solid wastes should be borne by those who use such services;
2. Serious economic, management, and technical problems exist in the management of solid wastes resulting from residential, commercial, industrial, agricultural, and other activities carried on in said jurisdictions;
3. Inefficient and improper methods of managing solid wastes create serious hazards to the public health, result in scenic blights, cause pollution of air and water resources, cause accident hazards, increase rodent and insect disease vectors, have an adverse effect on land values, create public nuisances, and otherwise interfere with community life and development; and
4. While the management of solid wastes is the responsibility of each person, problems of solid waste management have become a matter statewide in scope and concern, and necessitate state action through technical assistance and leadership in the application of new improved methods and processes to reduce the amount of solid wastes and unsalvageable materials and to promote environmentally acceptable and economical solid waste management.

It is hereby declared to be the purposes of this Act to:

1. Plan for and regulate the storage, collection, transportation, and disposal of solid wastes in order to protect the public health, safety, and welfare and to enhance the environment for the people of the state.
2. Establish and maintain a cooperative state program of planning and technical assistance for solid waste management.
3. Provide the authority to and require persons to plan and provide efficient, environmentally acceptable solid waste management.
4. Provide the authority for the review of plans and facilities for solid waste management.
5. Provide the authority to issue permits for the operation of solid waste management activities.
6. Promote the application of resource recovery systems which preserve and enhance the quality of air, water, and land resources.
7. Promote and assist in the development of markets for recovered and recycled materials.

SECTION 2. DEFINITIONS.)

1. "Collection" shall mean the act of removing solid wastes from the central storage point of the primary source or residential container.
2. "Department" shall mean the North Dakota state department of health charged with the administration and enforcement of this Act.
3. "Person" shall mean any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state or any other state or political subdivision thereof, and any legal successor, representative agent or agency of the foregoing.
4. "Sanitary landfilling" shall mean an engineered method of disposing of solid wastes on land in a manner that protects the environment by spreading the waste in thin layers, compacting it to the smallest practical volume, and covering it with soil by the end of each working day.
5. "Solid wastes" shall mean garbage, refuse, and other discarded solid materials, including solid waste materials resulting from industrial and commercial operations, as well as from communities.

6. "Solid waste management" shall mean the purposeful systematic control of the storage, collection, transport, handling, and disposal of solid wastes.
7. "Storage" shall mean the interim containment of solid waste, in an approved manner after generation and prior to ultimate disposal.
8. "Transport" shall mean the movement of solid waste subsequent to collection and prior to disposal.

SECTION 3. POWERS AND DUTIES OF THE DEPARTMENT.) The department shall have the responsibility for the administration and enforcement of this Act. It shall have the power and its duties shall be to:

1. Administer the state solid waste program pursuant to provisions of this Act.
2. Provide technical assistance on request to political subdivisions of the state and cooperate with appropriate federal agencies in carrying out the duties under this Act, and may, on request, provide technical assistance to other persons.
3. Encourage and recommend procedures for the utilization of self-financing solid waste management systems and intermunicipal agencies in accomplishing the desired objective of this Act.
4. Promote the planning and application of resource recovery systems which preserve and enhance the quality of air, water, and all resources.
5. Serve as the official state representative for all purposes of the Federal Solid Waste Disposal Act (P.L. 91-512), and for other state or federal legislation to assist in the management of solid wastes.
6. Survey the solid waste management needs within the state and maintain and upgrade the North Dakota solid waste management plan.
7. Require any person or combinations thereof within the state to submit for review and approval a solid waste management plan to show that solid wastes will be disposed of in accordance with the provisions of this Act.
8. Prepare, adopt, promulgate, modify, repeal, and enforce rules and regulations governing solid waste storage, collection, transport, handling, and disposal, in order to conserve the air, water, and land resources of the state; protect the public health; prevent environmental pollution and public nuisances; and enable it to carry

out the purposes and provisions of this Act and the adopted solid waste management plan.

9. Establish the procedures for permits governing the design and operation of solid waste management facilities and systems.
10. Prepare, issue, modify, revoke, and enforce orders, after investigation, inspection, notice, and hearing, prohibiting violation of any of the provisions of this Act or of any rules and regulations issued pursuant thereto, and requiring the taking of such remedial measures for solid waste management as may be necessary or appropriate to implement or effectuate the provisions and purposes of this Act.

SECTION 4. MUNICIPAL ORDINANCES.) Any political subdivision of the state may enact and enforce a solid waste management ordinance if such ordinance is equal to or more stringent than this Act and the rules and regulations authorized herein.

SECTION 5. REGIONAL SOLID WASTE MANAGEMENT.) Cities, townships, counties, and agencies, and any combination thereof, may by ordinance or contract join in a regional solid waste management agency or program.

SECTION 6. PERMITS.) The department is hereby authorized to issue permits for solid waste management facilities, and it shall be unlawful for any person to own, operate, or use a facility for solid waste disposal without a valid permit. All such permits shall be nontransferable and shall be for a term of two years from the date of issuance. All such permits so issued shall be conditioned upon the observance of the laws of the state and the rules and regulations authorized herein.

All existing solid waste management activities shall comply with the permit requirements of this Act within twelve months of the effective date of this Act.

SECTION 7. INSPECTIONS.) The department is hereby authorized to inspect all solid waste management activities, at all reasonable times, to ensure compliance with the laws of this state, the provisions of this Act, and the rules and regulations authorized herein.

SECTION 8. NOTICE.) Any notice, order, or other official correspondence of the department under this Act shall be sent by certified mail to the address of such person to be notified, or by personal service.

SECTION 9. ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.) Any proceeding under this Act for the issuance or modification of rules and regulations, including emergency orders relating to solid waste management and land protection, and determining compliance with rules and regulations of the department, shall be conducted in accordance with the provisions of chapter 28-32, and appeals may be taken as therein provided. Where an emergency exists requiring immediate action to protect the public health

and safety, the department may, without notice or hearing, issue an order reciting the existence of such emergency and requiring that such action be taken as is necessary to meet this emergency. Notwithstanding any provision of this Act, such order shall be effective immediately, but on application to the department shall be afforded a hearing before the state health council within ten days. On the basis of such hearing, the emergency order shall be continued, modified, or revoked within thirty days after such hearing.

SECTION 10. INJUNCTION PROCEEDINGS.) The violation of any provision of this Act, or any rule, regulation, or order issued thereunder, is declared a nuisance inimical to the public health, welfare, and safety. Whenever in the judgment of the department any person has engaged in or is about to engage in any acts or practices which constitute or will constitute a violation of this Act, or any rule, regulation, or order issued thereunder, the department, in accordance with the laws governing injunctions and other process, may maintain an action in the name of the state enjoining such action or practices or for an order directing compliance, and upon a showing by the department that such person has engaged or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order may be granted.

SECTION 11. PENALTIES.) Any person violating any provision of this Act, or any rule, regulation, or order issued thereunder, shall be guilty of a class A misdemeanor and upon conviction shall be punished as provided by law.

SECTION 12. PLATS.) All persons operating a solid waste facility under a permit issued pursuant to this Act shall, upon completion of the operation at each site, file a plat of the area with the register of deeds of each county in which the facility is located, together with a description of the wastes placed therein.

SECTION 13. EXEMPTION.) The provisions of this Act, and the rules, regulations, or orders authorized herein, shall not prevent any natural person who resides on unplatted land in unincorporated areas of this state from disposing of his normal household wastes on his property, so long as no health hazard or nuisance is created thereby.

SECTION 14. SHORT TITLE.) This Act may be cited as the Solid Waste Management and Land Protection Act.

Approved March 9, 1975

## CHAPTER 234

SENATE BILL NO. 2429  
(Hoffner)

## HOSPITAL DISTRICTS

AN ACT to provide for the formation of hospital districts, to authorize counties to levy taxes for the support and maintenance of the hospital districts, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. DEFINITIONS.) In this Act, unless the context or subject matter otherwise requires:

1. "Hospital" shall mean an institution with an organized medical staff, permanent facilities including inpatient beds, medical services including physician services and continuous nursing services, to provide diagnosis and treatment for medical conditions, both surgical and non-surgical, and services including rehabilitation services.
2. "Hospital district" shall mean a district organized pursuant to section 2 of this Act for the purpose of supporting one or more of the following types of institutions: a hospital, an intermediate health care facility, and a nursing home.
3. "Intermediate health care facility" shall mean a health-related institution planned, organized, operated, and maintained to supply supportive, restorative, and preventive health care with related social care, to individuals who, because of their physical or mental condition, or both, require less than twenty-four-hour nursing care in an institutional environment, but who do not have an injury, illness, or disability for which regular medical care and twenty-four-hour nursing services are required.
4. "Nursing home" shall mean an institution in which nursing care is rendered for compensation to two or more persons not related to the operator by blood or marriage, serving persons suffering from a prolonged physical or mental illness or defect, or persons recovering from some injury or disease. Care provided shall include: administration of medicines, preparation of special diets, giving of bedside care, application of dressings and bandages, and

carrying out treatments prescribed by duly licensed practitioners of the healing arts.

SECTION 2. HOSPITAL DISTRICTS AUTHORIZED - DISSOLUTION OF DISTRICTS.)

1. The board of county commissioners of any county, or two or more boards of county commissioners acting jointly, shall, when requested to do so by petition of twenty percent of the eligible voters, as determined by those voting for governor in that geographical area at the last gubernatorial election, in any territory equivalent in area to one township or more, submit the question to the voters at a special election or the next regularly scheduled primary or general election as to whether or not the voters of the area desire to establish a hospital district and whether they approve of the mill levy authorized by section 7 of this Act for the purpose of supporting such hospital district. If sixty percent of the voters voting in the election within the proposed district approve, the county commission or county commissions, as the case may be, shall, by resolution, create the hospital district comprising the entire area as described in the petition. However, if less than sixty percent of the voters voting in each organized or unorganized township or city do not vote in favor of establishing the hospital district, that township or city shall not be included within the hospital district. The nonparticipation of one or more cities or such townships included within the petition shall not preclude the other cities or townships included in the petition from forming a hospital district, regardless of geographical separation.
2. In the event the electors of a hospital district desire to dissolve such district, thirty percent of the eligible voters, determined as in subsection 1 of this section, may petition the board of directors of the hospital district to place the question of the continued existence of the hospital district before the electors of the district at the next regularly scheduled primary or general election. If at least sixty percent of the persons voting in such election do not approve of the continued operation of the hospital district, the board of directors shall notify the county commission or county commissions, as the case may be. The county commission or county commissions shall, upon receipt of such notice, by resolution order the dissolution of the hospital district. Mill levies previously authorized shall continue to be collected as authorized until the termination of the authority therefor.
3. The petition shall contain the name and address of each petitioner, the suggested name of the proposed district, the area in square miles to be included therein, the

population of such area according to the most recent census, and a complete description according to government survey of the boundaries of the real property to be included in the proposed district. The petitioners shall also present to the county auditor or auditors a plat or map showing the suggested boundaries of the proposed district, and shall deposit with the auditor a sum of money sufficient to defray the expenses of publishing the notices required by this Act and the cost of any special election.

4. Any city located within the area, whether or not such city has a hospital, may be included in the district if sixty percent or more of the electors residing therein approve of the district.

SECTION 3. NOTICE OF HEARING.) Following the passage of the resolution of the board of county commissioners, the county auditor shall designate a time and place for a public meeting of all electors residing within the boundaries of the district as fixed by the resolution of the board of county commissioners. Notice of such meeting shall be given by publication for two weeks in a newspaper of general circulation in the county, the last publication appearing at least seven days prior to said meetings; said notice shall include a description of the boundaries of the district as set forth in the resolution of the board of county commissioners; provided, that if the proposed district shall be within two or more counties, the county auditor of the county in which the greater portion of the district is to be situated shall fix the time and place for the public meeting and cause notice thereof to be published in each county in which the district is to be situated in the manner hereinbefore provided.

SECTION 4. BOARD OF DIRECTORS.) At the time and place fixed by the county auditor for the public meeting as provided in section 3, the electors residing within the boundaries of the district shall, by approval of a majority of those present, establish election procedures and elect a board of directors of the hospital district. The board of directors shall consist of not less than five residents of the district. The board of directors shall meet as soon after the organizational meeting as possible to elect a president, a vice president, and a secretary-treasurer. All directors and officers shall be elected for two years and hold office until their successors have been elected and qualified, except that at the first election the vice president shall be elected as provided in this section for a one-year term, and one-half, or as close to one-half as possible depending upon the total number of directors, of the directors elected at the first election following the effective date of this section shall be selected by lot in the presence of a majority of such directors to serve one-year terms. All officers shall serve without pay.

SECTION 5. REGULAR MEETING TO BE HELD.) A regular meeting of the electors who are owners of any interest in real property assessed for taxation in the district and who are residing within the

boundaries of a district shall be held in the first quarter of each calendar year and special meetings may be called by the board of directors at any time. Notice thereof shall be given by the secretary-treasurer by one publication in a legal newspaper of general circulation in each county in which such district is situated. The meeting shall be held not less than seven days nor more than fourteen days after the date of publication of such notice.

SECTION 6. POWERS OF BOARD OF DIRECTORS.) The board of directors shall have the following general powers:

1. To make an annual estimate of the probable expense for operating the district.
2. To annually certify such estimate to the proper county auditor or auditors in the manner provided by section 7.
3. To manage and conduct the business affairs of the district.
4. To make and execute contracts in the name of and on behalf of the district.
5. To incur indebtedness on behalf of the district for the purpose of constructing a building or for any other purpose incidental to the operation of a district within the limits prescribed by section 8 and to authorize the issuance of evidences of such indebtedness permitted under section 8, and to pledge any real property owned or acquired by the district as security for the same.
6. To organize, establish, build, equip, maintain, and supervise a hospital to serve the district.
7. Generally, to perform all acts necessary to fully carry out the purposes of this chapter.

SECTION 7. MILL LEVY AUTHORIZED.) The board of directors shall annually estimate the probable expense for operating the hospital district. Such estimate shall be certified by the president and secretary to the proper county auditor or county auditors, on or before June thirtieth of each year. The auditor or auditors shall levy a tax not to exceed five mills upon the taxable property within said district for the maintenance of the district for the fiscal year as provided by law. Said tax shall be:

1. Collected as other taxes are collected in the county;
2. Turned over to the secretary-treasurer of the district, who shall have a surety bond so set by the board of directors in the amount of at least five thousand dollars;
3. Placed to the credit of the district so authorizing the same by its secretary-treasurer in a state or national bank qualifying as a public depository; and

4. Paid out upon warrants drawn upon the fund by authority of the board of directors of the district, bearing the signature of the secretary-treasurer and the counter-signature of the president of the district.

In no case shall the amount of tax levy exceed the amount of funds required to defray the expenses of the district for a period of one year as embraced in the annual estimate of expense including the amount of principal and interest upon the indebtedness of the district for the ensuing year.

SECTION 8. INDEBTEDNESS OF DISTRICT LIMITED.) No district shall become indebted for an amount that may not be payable from twenty annual maximum tax levies as authorized by section 7. Within the limits herein authorized, the district shall have power to borrow money and to issue appropriate evidence of indebtedness thereof.

SECTION 9. FUNDS COLLECTED TO BE DEPOSITED.)

1. All funds collected on behalf of the district through the levy of taxes;
2. All income and earnings of the district;
3. All donations, contributions, bequests, or annuities; and
4. All borrowed money received by or on behalf of the district shall be deposited in a state or national bank qualified as a depository for public funds to the credit of the district fund and shall be drawn out only by warrant.

Such claim voucher shall be authorized by the board of directors and shall bear the signature of the treasurer and the counter-signature of the president of such district. The secretary-treasurer of the district shall, at each annual public meeting of the district, present a financial report concerning the affairs of the district. Once each year at the same time the state auditor examines other county records he shall examine the records of the secretary-treasurer of the district, and the cost of such examination shall be paid by such district. The secretary-treasurer of the district shall bring his records to the office of the county auditor for such examination.

SECTION 10. HOSPITAL DISTRICT MAY ENTER INTO CONTRACT.) Any hospital district may enter into a contract with a hospital or with another district to consolidate or cooperate for mutual purposes, including but not limited to ambulance or emergency vehicle services, or may enter into a contract with any federal, state, or local government agency for hospital or doctor services, upon terms suitable to all concerned, and power to make such contracts is hereby conferred upon such state or local government agency in addition to such powers as have been heretofore provided by law.

## SECTION 11. TERRITORY TO BE ANNEXED.)

1. Any territory which is adjacent to the boundary of an existing hospital district may be annexed to such district in the manner hereinafter provided.
2. The proceedings for the annexation, referred to in subsection 1, may be initiated by the presentation to the county auditor of a petition signed by thirty percent or more of the electors who are owners of any interest in real property assessed for taxation in the territory to be annexed and who are residing within the boundaries of such territory stating the desires and purposes of such petitioners. The petition shall contain a description of the boundaries of the territory proposed to be annexed. It shall be accompanied by a map or plat and a deposit for publication costs.
3. The county auditor shall consult the tax schedules in his office and determine and certify whether or not such petition complies with the requirements of subsection 2 and that the persons signing the same appear to reside within the boundaries described by such petition. Thereafter, the county auditor shall forward such petition, map or plat, and certificate to the board of directors of the district concerned.
4. Within thirty days after receiving the petition, map or plat, and certificate of the county auditor, in accordance with subsection 3, from the county auditor, such board of directors shall transmit the same to the proper county board, accompanied by a report in writing approving or disapproving the proposal contained in the petition, or approving such proposal in part and disapproving it in part.
5. If the report of the board of directors, referred to in subsection 4, disapproves the proposal, the petition shall be rejected. If the report is favorable to such proposal, either in whole or in part, the board of county commissioners shall give notice of election in the manner prescribed by section 3 of this Act and submit the question to the voters at the next regularly scheduled primary or general election as to whether or not the voters of the proposed area desire to be annexed and whether they approve of the mill levy authorized by section 7 of this Act for the purpose of supporting such hospital district. If at least sixty percent of the voters voting in the election within the territory proposed to be annexed approve, the territory shall become a part of the existing hospital district.

SECTION 12. 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 April 8, 1975

## CHAPTER 235

SENATE BILL NO. 2318  
(Nething, Melland)

## SALE OF HOSPITAL LAND TO JAMESTOWN COUNTRY CLUB

AN ACT to authorize the state health officer of the state department of health to sell and convey certain land owned by the state of North Dakota, which land was used by the North Dakota state hospital.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) The state health officer of the state department of health, under conditions hereinafter stated, is authorized to sell at a price of not less than three hundred dollars per acre, or to trade for suitable property of comparable value, to the Jamestown country club certain land owned by the state of North Dakota, which land consists of and is described as the southeast quarter of the northeast quarter of section eight, township one hundred thirty-nine, range sixty-three, Stutsman County, North Dakota.

Such conveyance shall reserve to the state all mineral rights in and under the premises conveyed. Upon the sale or trade of such land, any proceeds shall be deposited in the general fund in the state treasury. The real property shall be conveyed by quitclaim deed executed in the name of the state of North Dakota by the governor and attested by the secretary of state.

SECTION 2.) The state shall not be responsible for the payment of any special assessments levied and assessed by any taxing district against property subject to sale and conveyance pursuant to this Act.

Approved March 17, 1975