

GENERAL PROVISIONS

CHAPTER 82

SENATE BILL NO. 2086
(Legislative Council)
(Interim Judiciary "B" Committee)

TECHNICAL CORRECTIONS ACT

AN ACT to create and enact subsections 19.1 and 28 to section 57-15-06.7, subsection 25.1 to section 57-15-10, and subsection 5.1 to section 57-15-20.2 of the North Dakota Century Code, relating to tax levy references; to amend and reenact sections 2-03-14, 4-22-51, 4-25-04, 4-30-04, 4-30-07, 5-01-06, 6-09-27, 6-09.4-17, 7-07-02, 9-08-08, subsection 3 of section 10-15-38, subsection 2 of section 10-15-46, subsection 4 of section 10-15-52.4, subsection 1 of section 10-15-56, section 10-19-63, subsection 4 of section 10-22-14, section 10-24-37, subsection 4 of section 10-27-14, subsection 2 of section 11-15-07, sections 11-15-08, 11-18-14, subsection 2 of section 13-03-05, sections 14-02-06, 14-02-10, 14-07.1-06, 15-20.1-09, 15-20.4-13, subsections 2 and 5 of section 15-47-38, subsection 11 of section 15-47-38.1, subsection 1 of section 15-53.1-05.2, sections 15-60-08, 18-04-05, subdivision h of subsection 1 of section 19-03.1-36, section 21-06-10, subsection 4 of section 23-28-03, subsection 2 of section 23-28-04, subsection 2 of section 23-28-05, sections 25-02-01, 26.1-21-01, 27-08.1-01, 27-19-01, 27-19-04, 27-19-09, 27-19-12, 27-19-13, 28-01-05, 28-01-14, 28-01-15, 28-01-16, 28-01-17, 28-01-18, 28-01-19, 28-01-22, 28-01-22.1, 28-01-24, 28-01-25, 28-01-26, 28-01-26.1, 28-01-28, 28-01-30, 28-01-31, 28-01-32, 28-01-37, 28-01-42, subsection 2 of section 28-01.1-02, section 28-05-07, subsection 4 of section 28-14-06, sections 28-22-07, 28-24-02, 28-26-08, 28-26-24, subdivision a of subsection 1 of section 28-32-01, section 30.1-12-09, subsection 2 of section 32-08.1-03, sections 32-12.1-10, 32-13-05, 32-15-06, 32-17-04, 32-19-30, 32-20-02, 32-20-03, subsection 3 of section 32-22-27, subsection 4 of section 32-38-03, sections 32-39-03, 34-01-13, 34-06.1-05, 34-06.1-06, 34-08-09, 34-14-08, 35-18-01, 35-18-05, 35-18-11, 35-27-27, 36-04-12, 36-04-16, 36-22-08, 38-14.2-09, subsection 27 of section 39-01-01, section 39-12-11, subsection 3 of section 39-16-01, sections 39-16.1-01, 39-22.3-07, 40-05.1-13, 40-11-10, 40-49-17, subsection 1 of section 41-02-101, sections 41-02-104, 41-03-22, subsection 3 of section 41-03-68, subsection 2 of section 41-05-15, sections 43-23-10, 43-23.1-19, 43-23.2-05,

43-23.2-06, 43-31-06, subdivision c of subsection 1 of section 43-40-16, subsection 2 of section 47-16-17, sections 47-16-30, 48-02-15, 49-04.1-04, 51-07-09, subsection 3 of section 51-13-02.1, subsection 3 of section 51-18-05, section 51-21-04, subsection 3 of section 51-22-03, sections 52-04-12, 52-04-16, 54-18-12, 54-46-03, 54-46-11, 54-46.1-01, 54-46.1-02, 54-46.1-04, 54-46.1-05, 54-46.1-06, 57-15-06.6, 57-15-06.8, 57-15-22.2, 57-15-55.1, 57-16-07, 57-26-07, 57-30-02, 57-30-04, 57-38-35, 57-38-61, 57-39.2-23, 58-04-09, 58-14-01, 60-04-03.1, 60-04-05, 61-02-61, 61-02-68.11, 61-02-72, 61-24.4-09, 65-01-01, subsection 9 of section 65-01-02, sections 65-01-08 and 65-05-06 of the North Dakota Century Code, relating to improper, inaccurate, redundant, or obsolete references; and to repeal sections 14-02-11, 15-08-01.1, 25-10-04, 50-02-02, 54-27.1-10, 54-46-03.1, and subsection 13 of section 57-15-10 of the North Dakota Century Code, relating to discrimination, oil and gas bonus payments, state hospital administration, residency, reports, records management, and tax levies.

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

SECTION 1. AMENDMENT. Section 2-03-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-03-14. **Civil liability for injuries to guest passenger.** No person transported by the owner or operator of any aircraft as a guest without payment for such transportation ~~shall have a cause of action~~ has claim for relief for damages against the owner or operator for injury, death, or loss in case of accident, unless the accident ~~shall have been~~ was caused by the gross negligence, intoxication, or willful and wanton misconduct of the owner or operator of the aircraft, and unless the gross negligence, intoxication, or willful and wanton misconduct of the owner or operator of the aircraft contributed to the injury, death, or loss ~~for which the action is brought~~. No person so transported ~~shall have such cause of action~~ has claim for relief if he has willfully or by want of ordinary care brought the injury upon himself. For purposes of this section, the word "guest" means any person other than an employee of the owner or registrant of any aircraft, or of a person responsible for its operation with the owner's or registrant's express or implied consent, being in or upon, entering or leaving the same, except any passenger for hire and except any passenger while the aircraft is being used in the business of demonstrating or testing. The sharing of expense ~~shall~~ does not constitute a carriage for hire within the meaning of this section.

SECTION 2. AMENDMENT. Section 4-22-51 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-51. **Soil conservation trust lands.** The state of North Dakota hereby accepts and declares to be held in trust for the soil conservation districts of the state for use in carrying out the soil

conservation program those certain tracts or parcels of land lying and being in the county of Burleigh and state of North Dakota and more particularly described as follows:

Township one hundred thirty-eight north, range eighty west, fifth principal meridian: west one-half of section fifteen-
west one-half section sixteen- and that portion of the southeast quarter of section sixteen described as follows: beginning at the southeast corner of said section sixteen, thence running north on the east line of said section 660 feet; thence west parallel with the south line of said section 2310 feet; thence south 660 feet to a point on the south line of said section 2310 feet west of the southeast corner of said section; thence east along the south line of said section 2310 feet to the place of beginning; containing thirty-five acres, more or less.

Subject, however, to the following rights, easements, exceptions and reservations:

1. Easements for existing or established roads, highways and public utilities, if any.
2. Right reserved by the Department of the Army "to enter thereon and remove gravel and use the established rubbish disposal area as long as any part of Fort Lincoln Military Reservation is used by the Department of the Army".
3. Reservation to the United States of America and its assigns of an undivided three-fourths interest in all coal, oil, gas, and other minerals, including three-fourths of all sand, gravel, stone, clay and similar materials, in or under such property, together with the usual mining rights, powers, and privileges, including the right at any and all times, to enter upon the land and use such parts of the surface as may be necessary in prospecting for, mining, saving and removing said minerals or materials, provided that such quantities of sand, gravel, stone, clay and similar materials, as may be required, may be utilized in the operation or improvement of the said lands.

The said lands, having been conveyed to the state of North Dakota by the United States of America for use in carrying out the soil conservation program of the soil conservation districts of the state, are further subject to the condition that they shall be used for public purposes and if at any time cease to be so used shall revert to and become revested in the United States.

The control, custody, possession, supervision, management, and operation of the said trust lands is hereby vested in the North Dakota Association of Soil Conservation Districts for use in carrying out the soil conservation program of the soil conservation districts of the state and the said association in such control,

custody, possession, supervision, management, and operation shall hold all accumulations of personal property or surplus funds derived from said lands in trust for the soil conservation districts of the state for use in carrying out the soil conservation program.

SECTION 3. AMENDMENT. Section 4-25-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-25-04. Repurchase contracts - Bonding requirement for nonresident seed dealers. Any nonresident person or his agent shall pay an annual license fee of twenty-five dollars to the state seed commissioner before engaging in the business of selling any agricultural grain or grass seed or entering into any contract with a purchaser whereby he agrees to purchase or retains an option to purchase the grain or grass seed or feed grain produced. ~~Such~~ The license shall be is renewable annually on January 1 first of each year. In addition, at the time of making application for such license, the applicant shall furnish a corporate surety bond to be approved by the commissioner in the penal sum of ten thousand dollars running to the state of North Dakota for the use and benefit of any such purchaser of seed or seller under a repurchase contract or option, who may have a ~~cause of action~~ claim for relief against any seller or repurchaser who fails to comply with the terms of the purchase or repurchase contract. All fees collected under this section shall be disposed of in the manner provided in section 4-09-20.

SECTION 4. AMENDMENT. Section 4-30-04 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-04. Department to become trustee upon default in required security. If any licensee defaults in the provisions of any required security, the licensee ~~shall be is~~ deemed to be insolvent within the meaning of this chapter. The ~~cause of action~~ claim for relief for damages upon any required security, and the amount recovered in any ~~cause of~~ action for the conversion of milk, or milk products, as the case may be, purchased by the licensee while the license is in force and effect, and the assets of the licensee not made subject to any claim in federal bankruptcy by any secured or general creditor within four months of the appointment of the department as trustee under this chapter, ~~shall~~ constitute a trust fund in the hands of the department for all persons having a ~~cause of action~~ claim for relief against the licensee on the required security.

SECTION 5. AMENDMENT. Section 4-30-07 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-07. Remedy of claimants - Separate action by claimant permissible. No claimant ~~shall have~~ has a separate ~~cause of action~~ claim for relief against any licensee's required security unless the department fails or refuses to apply for its own appointment as trustee as provided in this chapter. Any claimant, either independently or in conjunction with other claimants, may pursue

concurrently with the department any other remedy which the claimant or claimants may have against the licensee, or against the property of the licensee, for the whole of their claim or claims or for any deficiency which occurs after payments have been made from the trust fund.

SECTION 6. AMENDMENT. Section 5-01-06 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-01-06. Recovery of damages resulting from intoxication. Every spouse, child, parent, guardian, employer, or other person who is injured by any intoxicated person, or in consequence of intoxication, ~~shall have~~ has a right of action claim for relief against any person who caused such intoxication by disposing, selling, bartering, or giving away alcoholic beverages contrary to statute for all damages sustained, and in the event death ensues, the survivors of the decedent are entitled to ~~such~~ damages as defined in section 32-21-02.

SECTION 7. AMENDMENT. Section 6-09-27 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09-27. Civil actions on Bank transactions - Name of parties - Service - Venue. Civil actions may be brought against the state of North Dakota on account of ~~causes of action claims for relief~~ claimed to have arisen out of transactions connected with the operation of the Bank of North Dakota upon condition that the provisions of this section are complied with. In such actions, the state shall be designated as "The State of North Dakota, doing business as The Bank of North Dakota", and the service of process ~~therein~~ shall be made upon the president of the Bank. The actions may be brought in the same manner and ~~shall be~~ are subject to the same provisions of law as other civil actions. The action shall be brought, however, in the county where the Bank of North Dakota ~~shall have~~ has its principal place of business, except as provided in sections 28-04-01, 28-04-02, 28-04-03, 28-04-04, and 28-04-06.

SECTION 8. AMENDMENT. Section 6-09.4-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.4-17. Exemption of property from execution sale. All property of the bond bank ~~shall be~~ is exempt from levy and sale by virtue of an execution and no execution or other judicial process ~~shall~~ may issue against the same nor ~~shall~~ may any judgment against the bond bank be a charge or lien upon its property; provided that nothing contained in this chapter ~~shall apply~~ applies to or ~~limit~~ limits the rights of the holder of any bonds to pursue any remedy for the enforcement of any pledge or lien given by the bank on its revenues or other moneys. Any action or proceeding in any court to set aside a resolution authorizing the issuance of bonds or notes by the bond bank under this chapter or to obtain any relief upon the ground that such resolution is invalid must be commenced within ten days after

the adoption of said resolution by the bond bank. After the expiration of such period of limitation, no ~~right of action claim for relief~~ or defense founded upon the invalidity of ~~such the~~ resolution or any of its provisions ~~shall~~ may be asserted nor ~~shall~~ may the validity of ~~such the~~ resolution or any of its provisions be open to question in any court on any ground whatever.

SECTION 9. AMENDMENT. Section 7-07-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7-07-02. Instruments to be filed. Any foreign corporation as defined in this title, before doing business within this state, shall file in the office of the secretary of state and in the office of the ~~state examiner commissioner of banking and financial institutions~~ a duly authenticated copy of its charter, articles of incorporation, or articles of agreement, a copy of its bylaws and other rules and regulations showing the method of conducting its business, and also a statement verified by oath of the president and secretary of such corporation, or by oath of its managing officials if it is other than a corporation, showing:

1. The name of ~~such the~~ corporation and the location of its principal office or place of business without this state, and the location of the place of business or principal office within this state;
2. The names and residences of the officers, trustees, or directors;
3. The amount of paid-in capital stock or outstanding shares;
4. The amount invested in the state of North Dakota; and
5. The names, addresses, and the total cash credits of all of its stockholders, shareholders, investors, and customers who reside in the state of North Dakota.

A similar statement shall be filed annually thereafter as of December thirty-first with the ~~state examiner commissioner~~ within twenty days after December thirty-first of each year.

~~Such The~~ corporation shall file, at the same time and in the same offices, a certificate signed by its president, vice president, or other acting head, and its secretary, if there is one, certifying: that the ~~said~~ corporation has consented to all the license laws and other laws of the state of North Dakota relative to foreign corporations; that it has consented to be sued in the courts in this state upon all ~~causes of action claims for relief~~ arising against it in this state; that service of process in any action or proceeding brought against it may be made upon the secretary of state of North Dakota; and that ~~such~~ service of process, when so made upon the secretary of state, ~~shall be is~~ valid service on the corporation.

SECTION 10. AMENDMENT. Section 9-08-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

9-08-08. Settlement of damages for personal injuries voidable. Every settlement or adjustment of any cause of action claim for relief for damages on account of any personal injuries received, whether death ensues or not to the person injured, and every contract of retainer or employment to prosecute such an action, ~~shall be~~ is voidable if made within thirty days after such the injury or if made while the person so injured is under disability from the effect of the injury so received and within six months after the date of the injury.

SECTION 11. AMENDMENT. Subsection 3 of section 10-15-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. No amendment may affect any existing cause of action claim for relief or proceedings to which the cooperative is a party, or existing rights of persons other than members or stockholders.

SECTION 12. AMENDMENT. Subsection 2 of section 10-15-46 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. If the cooperative cures its defaults other than those under subdivisions b and c of subsection 1 prior to the entry of the court's final decree and pays all penalties and court costs that have accrued, the cause of action claim for relief with respect to the defaults so cured will abate.

SECTION 13. AMENDMENT. Subsection 4 of section 10-15-52.4 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. That the cooperative revokes the authority of its registered agent in this state to accept service of process and consents that service of process in any action, suit, or proceeding based upon any cause of action claim for relief arising in this state during the time the cooperative was authorized to transact business in this state may thereafter be made on such cooperative by service thereof on the secretary of state.

SECTION 14. AMENDMENT. Subsection 1 of section 10-15-56 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. No action may be instituted or maintained in the right of any association by a member or stockholder unless he:
 - a. Alleges in his complaint that he was a member or registered stockholder when any part of the

transaction of which he complains took place, or that his stock thereafter devolved upon him by operation of law from a stockholder at such time.

- b. Alleges in his complaint with particularity his efforts to secure from the board such action as he desires. He shall allege further that he has either informed the association or board in writing of the ultimate facts of each cause of action claim for relief against each director or that he has delivered to the association or board a copy of the complaint which he proposes to file. He shall state the reasons for his failure to obtain such action or the reasons for not making such effort.

SECTION 15. AMENDMENT. Section 10-19-63 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-19-63. Effect of certificate of amendment. Upon the issuance of the certificate of amendment by the secretary of state, the amendment ~~shall become~~ becomes effective and the articles of incorporation ~~shall be~~ are deemed to be amended accordingly.

~~No~~ An amendment ~~shall does not~~ affect any existing cause of action claim for relief in favor of or against such corporation, or any pending suit to which such corporation ~~shall be~~ is a party, or the existing rights of persons other than shareholders. ~~In the event~~ If the corporate name ~~shall be~~ is changed by amendment, no suit brought by or against such corporation under its former name ~~shall abate~~ may be abated for that reason.

* SECTION 16. AMENDMENT. Subsection 4 of section 10-22-14 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. That the corporation revokes the authority of its registered agent in this state to accept service of process and consents that service of process in any action, suit, or proceeding based upon any cause of action claim for relief arising in this state during the time the corporation was authorized to transact business in this state may thereafter be made on such corporation by service thereof on the secretary of state.

SECTION 17. AMENDMENT. Section 10-24-37 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-24-37. Effect of certificate of amendment. Upon the issuance of the certificate of amendment by the secretary of state, the amendment ~~shall become~~ becomes effective and the articles of incorporation ~~shall be~~ are deemed to be amended accordingly.

~~No~~ An amendment ~~shall does not~~ affect any existing cause of action claim for relief in favor of or against such corporation, or

- * NOTE: Section 10-22-14 was also amended by section 13 of Senate Bill No. 2107, chapter 148.

any pending action to which such corporation ~~shall be~~ is a party, or the existing rights of persons other than members. ~~in the event~~ if the corporate name ~~shall be~~ is changed by amendment, no action brought by or against such corporation under its former name ~~shall abate~~ may be abated for that reason.

SECTION 18. AMENDMENT. Subsection 4 of section 10-27-14 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. That the corporation revokes the authority of its registered agent in this state to accept service of process and consents that service of process in any action, suit, or proceeding based upon any ~~cause of action~~ claim for relief arising in this state during the time the corporation was authorized to conduct affairs in this state may thereafter be made on ~~such~~ the corporation by service thereof on the secretary of state.

SECTION 19. AMENDMENT. Subsection 2 of section 11-15-07 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. For serving a summons, ~~warrant writ~~ writ of attachment, order of replevin, injunctive order, citation, and other mesne process and making a return thereon, a total of seven dollars and fifty cents for each person served at different locations.

*** SECTION 20. AMENDMENT.** Section 11-15-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-15-08. Sheriff's commissions. Except as otherwise provided in section 11-15-09, the sheriff ~~shall be~~ is entitled to receive commissions on all moneys received and disbursed by him on an execution, order of sale, order of attachment, or decree for the sale of real or personal property, as follows:

1. On the first four hundred dollars, three percent.
2. On all moneys in excess of four hundred dollars and not exceeding one thousand dollars, two percent.
3. On all moneys in excess of one thousand dollars, one percent.

In all cases where personal property ~~shall be~~ is taken by the sheriff on an execution or under a ~~warrant writ~~ writ of attachment and applied in satisfaction of the debt without sale, he ~~shall be~~ is entitled to receive the percentage specified in this section based upon the appraised value of the property.

**** SECTION 21. AMENDMENT.** Section 11-18-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* NOTE: Section 11-15-08 was also amended by section 1 of House Bill No. 1438, chapter 162.

** NOTE: Section 11-18-14 was also amended by section 1 of Senate Bill No. 2292, chapter 384.

11-18-14. Register of deeds to remove and destroy certain documents - Records to be made. The register of deeds in each county in this state, unless otherwise earlier permitted by law, shall remove from the files in his office, and destroy, all seed liens, labor liens, stallion liens, chattel mortgages, threshing liens, crop production liens, combining liens, mechanic's liens, repairman's liens, and sales contracts together with any releases for the same upon which a cause of action claim for relief has accrued and which cause of action claim for relief is more than ten years old. At the time of destroying said the files the register of deeds shall note on the margin of the index opposite the record of each instrument so removed and destroyed the date when the same was destroyed.

SECTION 22. AMENDMENT. Subsection 2 of section 13-03-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The commissioner may issue a license to operate a small loans business if he shall find the commissioner finds:
 - a. That the financial responsibility, experience, character, and general fitness of the applicant, are such as to warrant the belief that the business will be operated lawfully, and fairly; and
 - b. That the application has net liquid assets of at least ten thousand dollars for the operation of the business; and
 - c. That the applicant shall have has filed with the commissioner a bond to be approved by him the commissioner in which the applicant shall be is the obligor, in the sum of ten thousand dollars, with one or more sureties whose liability as such sureties need not exceed the said sum in the aggregate. This bond shall must run to the commissioner for the use of the state and of any person or persons who may have a cause of action claim for relief against the obligor of said the bond under the provisions of this chapter. Such The bond shall be conditioned that said the obligor will faithfully conform to and abide by the provisions of this chapter and of all the rules and regulations lawfully made by the commissioner hereafter, and will pay to the state and to any such person or persons any and all moneys that may become due or owing to the state or to such the person or persons from said the obligor under and by virtue of the provisions of this chapter.

SECTION 23. AMENDMENT. Section 14-02-06 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-02-06. Offenses against personal relation. All civil ~~causes of action claims for relief~~ for breach of promise to marry, alienation of affection, criminal conversation, and seduction are abolished. A ~~cause of action claim for relief~~ brought before July 1, 1983, under this section, is valid until final judgment is rendered.

SECTION 24. AMENDMENT. Section 14-02-10 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-02-10. Uniform Single Publication Act. No person ~~shall~~ may have more than one ~~cause of action claim for relief~~ for damages for libel or slander or invasion of privacy or any other tort founded upon any single publication or exhibition or utterance, such as any one edition of a newspaper or book or magazine or any one presentation to an audience or any one broadcast over radio or television or any one exhibition of a motion picture. Recovery in any action ~~shall~~ must include all damages for any such tort suffered by the plaintiff in all jurisdictions.

A judgment in any jurisdiction for or against the plaintiff upon the substantive merits of any action for damages founded upon a single publication or exhibition or utterance as described in this section ~~shall bar bars~~ any other action for damages by the same plaintiff against the same defendant founded upon the same publication or exhibition or utterance.

This section may be cited as the Uniform Single Publication Act.

This section is not retroactive to ~~causes of action claims for relief~~ existing on July 1, 1953.

SECTION 25. AMENDMENT. Section 14-07.1-06 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-07.1-06. Penalty for violation of a protection order - Arrest without warrant. Whenever a protection order is granted pursuant to section 14-07.1-02 or 14-07.1-03 and the respondent or person to be restrained has been served a copy of the order, a violation of the order ~~shall be is~~ a class A misdemeanor and also ~~constitute constitutes~~ criminal contempt of court subject to penalties therefor. A peace officer may arrest any person without a warrant if:

1. The person has committed the offense of violating a protection order, whether or not the violation was committed in the presence of the officer; or
2. The ~~person, if~~ the peace officer has probable cause to believe the person within the preceding four hours, has assaulted ~~his or her~~ that person's spouse, other family member, former spouse, or any person with whom the person

resides, although the assault did not take place in the presence of the peace officer. A peace officer may not arrest a person pursuant to this subsection without first observing that there has been recent physical injury to, or impairment of physical condition of, the alleged victim.

~~No~~ A peace officer ~~shall~~ may not be held criminally or civilly liable for making an arrest pursuant to this section if the officer acts in good faith on probable cause and without malice.

SECTION 26. AMENDMENT. Section 15-20.1-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-20.1-09. Board membership - Powers and duties. The school board of a vocational school district ~~shall~~ must consist of not to exceed seven members, elected from geographical districts which shall be as nearly equal in population as is practicable at the same time and for the same terms as are other county officials. ~~The board of county commissioners shall determine the boundaries of the geographical districts shall be determined by the board of county commissioners or, in.~~ In the case of several counties combining to form a district, by the boards of county commissioners sitting jointly shall determine the boundaries of the geographical districts. The board or boards of county commissioners, as the case may be, shall also appoint the members of the original school board who shall serve until the next regular election of county officials. ~~The provisions of section Section 15-28-02 shall does~~ not apply to a school board elected or appointed in accordance with this section. Such school board shall be governed by this title and shall possess all of the powers granted to a public school board by section 15-29-08 or any other provision of law, insofar as such powers are consistent with the provisions of this section and sections 15-20.1-08 through 15-20.1-10 and 15-20.1-11.

SECTION 27. AMENDMENT. Section 15-20.4-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-20.4-13. Jurisdiction of courts - Service of process. Any postsecondary educational institution not exempt from ~~the provisions of~~ this chapter, whether or not a resident of or having a place of business in this state, which instructs or educates, or offers to instruct or educate, enrolls or offers to enroll, contracts or offers to contract, to provide instructional or educational services in this state, whether such instruction or services are provided in person or by correspondence, to a resident of this state, or which offers to award or awards any educational credentials to a resident of this state, submits such institution, and if a natural person his personal representative, to the jurisdiction of the courts of this state, concerning any cause of action claim for relief arising therefrom, and for the purpose of enforcement of this chapter by injunction pursuant to section 15-20.4-14. Service of process upon

any such institution subject to the jurisdiction of the courts of this state may be made by personally serving the summons upon the defendant within or outside this state, in the manner prescribed by the North Dakota Rules of Civil Procedure, with the same force and effect as if the summons had been personally served within this state. Nothing contained in this section ~~shall limit~~ limits or ~~effect~~ affects the right to serve any process as prescribed by the North Dakota Rules of Civil Procedure.

* SECTION 28. AMENDMENT. Subsections 2 and 5 of section 15-47-38 of the 1983 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. The school board of any school district contemplating discharging a teacher for cause prior to the expiration of the term of the teacher's contract shall notify the teacher in writing of that fact at least ten days prior to the date of contemplated discharge. The teacher shall be informed in writing of the time and place for a special meeting of the school board to be held on the question of the teacher's discharge prior to a final decision on the matter. The teacher shall also be informed in writing of his right to demand a specification of the reasons for discharge, which must, upon receipt of the demand of the teacher, be furnished not less than five days prior to the meeting to be held on the question of the teacher's discharge. The reasons ~~shall~~ must be sufficient to justify the contemplated action of the board and ~~shall~~ may not be frivolous or arbitrary. At the meeting with the board, if the teacher has informed the board in writing at least two days prior thereto that he will contest the charges brought against him, the board must sustain the charges with evidence produced at the hearing with witnesses who ~~shall be~~ are subject to cross-examination by the teacher or his representative. A witness, if a minor, shall be accompanied by a parent or parents, legal guardian, or legal counsel, if requested by the minor or the minor's parents. The teacher may then produce such witnesses as may be necessary to refute the charges, which witnesses shall be subject to cross-examination. All procedures relative to evidence, subpoena of witnesses, oaths, record of testimony, decision, rehearing, appeals, certification of record, scope and procedure for appeals, and appeals to the supreme court shall be conducted in accordance with the provisions of sections 28-32-06, 28-32-07, 28-32-09, 28-32-10, 28-32-11, 28-32-12, 28-32-13, 28-32-14, 28-32-15, 28-32-16, 28-32-17, 28-32-18, 28-32-19, 28-32-20, and 28-32-21. The meeting ~~shall~~ must be an executive session of the board unless both the school board and the teacher requesting the meeting ~~shall~~ agree that it ~~shall~~ is to be open to other persons or the public. The teacher may be represented at the meeting by two representatives of his own choosing; and the teacher's spouse, or one other family member of

* NOTE: Section 15-47-38 was also amended by section 3 of Senate Bill No. 2279, chapter 229.

the teacher's choice, may also attend the meeting if the teacher so desires. In addition to board members, the school district clerk, and the superintendent, the school board may be represented by two other representatives of its own choosing at such executive session. If the teacher so requests, he shall be granted a continuance of not to exceed seven days by the board unless for good cause otherwise shown. No cause of action claim for relief for libel or slander shall lie for any statement expressed either orally or in writing at any executive session of the school board held for the purposes provided for in this section.

5. The school board of any school district contemplating not renewing a teacher's contract, as provided in section 15-47-27, shall notify the teacher in writing of such contemplated nonrenewal no later than April fifteenth. The teacher shall be informed in writing of the time, which shall not be later than April twenty-first, and place of a special school board meeting for the purpose of discussing and acting upon such contemplated nonrenewal. The teacher shall also be informed in writing of the reasons for nonrenewal. The reasons given by the school board for its decision not to renew a teacher's contract must be drawn from specific and documented findings arising from formal reviews conducted by the board with respect to the teacher's overall performance. Each district shall have an established system through which two written evaluations are prepared for every teacher employed by the district during each school year. These written performance reviews shall be completed and made available to the teacher no later than December fifteenth for the first review and February twenty-eighth for the second review each year. The reasons given by the board for not renewing a teacher's contract shall must be sufficient to justify the contemplated action of the board and shall may not be frivolous or arbitrary but shall must be related to the ability, competence, or qualifications of the teacher as a teacher, or the necessities of the district such as lack of funds calling for a reduction in the teaching staff. At the meeting with the board the teacher may then produce such evidence as may be necessary to evaluate the reasons for nonrenewal, and either party may produce witnesses to confirm or refute the reasons. The administrator shall substantiate the reasons with written or oral evidence presented at the meeting. All witnesses are subject to questioning for the purposes of clarification. At the meeting, the board shall discuss the reasons and determine whether or not the administrator has, in fact, substantiated the reasons. If the board finds that the reasons have not been substantiated, the nonrenewal proceedings will be dismissed. The meeting shall must be an executive session of the board unless both the school board and the teacher shall agree that it

~~shall is~~ to be open to other persons or the public. The teacher may be represented at the meeting by any two representatives of his own choosing; and the teacher's spouse, or one other family member of the teacher's choice, may also attend the meeting if the teacher so desires. In addition to board members, the school district clerk, and the superintendent, the school board may be represented by two other representatives of its own choosing at such executive session. At the meeting, if the teacher so requests, he shall be granted a continuance of not to exceed seven days. ~~No cause of action claim for relief~~ for libel or slander ~~shall lie~~ lies for any statement expressed either orally or in writing at any executive session of the school board held for the purposes provided for in this section. The determination not to renew a contract if made in good faith shall be final and binding on all parties. Final notice of the determination not to renew a contract shall be given in writing by May first as provided in section 15-47-27.

SECTION 29. AMENDMENT. Subsection 11 of section 15-47-38.1 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11. ~~No cause of action claim for relief~~ for libel or slander shall ~~accrue~~ accrues from any statement expressed either orally or in writing at an executive session of the school board held for the purposes provided for in this section.

* SECTION 30. AMENDMENT. Subsection 1 of section 15-53.1-05.2 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. If a county committee receives an annexation petition made under section 15-53.1-05 which involves the transfer of territory accounting for ten percent or more of a school district's ~~net assessed property taxable~~ valuation, the county committee shall submit the petition directly to the state board without first taking action on the petition. The state board shall then make the sole determination of whether the proposed annexation described in the petition would cause the district which would lose the territory to be unable to levy sufficient taxes to carry on normal school operations.

SECTION 31. AMENDMENT. Section 15-60-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-60-08. Competition in award of contracts. If any project or any portion thereof, or any improvement thereof, shall be is constructed pursuant to a contract, and the estimated cost thereof exceeds five hundred dollars, ~~such~~ the contract shall be awarded to the lowest responsible bidder after advertisement for bids once a week for three weeks in at least one newspaper of general circulation in the

* NOTE: Section 15-53.1-05.2 was repealed by section 9 of Senate Bill No. 2065, chapter 209.

county where the project or improvement is located. The board may make rules and regulations for the submission of bids and the construction or improvement of any project or portion thereof. No contract shall may be entered into for construction or improvement of any project or portion thereof, or for the purchase of materials, unless the contractor shall give gives an undertaking with a sufficient surety or sureties approved by the board, and in an amount fixed by the board, for the faithful performance of the contract. All construction contracts shall must provide, among other things, that the person or corporation entering into such contract with the board will pay for all materials furnished and services rendered, for the performance of the contract, and that any person or corporation furnishing such materials or rendering such services may maintain an action to recover for the same against the obligor in the undertaking as though such person or corporation was named therein, provided the action is brought within one year after the time the cause of action claim for relief accrued. Nothing in this This section shall be construed to does not limit the power of the board to construct any project or portion thereof of any addition, betterment, or extension thereto, directly by the officers, agents, and employees of the board, or otherwise than by contract. Subject to the aforesaid, the board may, but without intending by this provision to limit any powers of such board, enter into and carry out such contracts, or establish or comply with such rules and regulations concerning labor and materials and other related matters in connection with any project or portion thereof as the board may deem desirable, or as may be requested by any federal agency that may assist in the financing of such project or any part thereof.

* SECTION 32. AMENDMENT. Section 18-04-05 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-04-05. Amount due cities, rural fire protection districts, or rural fire departments - Certificate of commissioner of insurance to office of management and budget --Appropriation. The commissioner of insurance shall compute the amounts due to the several cities, townships, certified rural fire departments, or fire protection districts entitled to benefits under this chapter, and shall certify such amounts for payment to the office of management and budget on or before June first of each year, in the following manner:

1. To cities not within the boundaries of a fire protection district, a sum equal to two and one-fourth percent of the premiums received by insurance companies issuing policies for fire, allied lines, homeowner's multiple peril, farmowner's multiple peril, and commercial multiple peril insurance on property in such cities.
2. To each city fire department performing service outside of its incorporated limits, the sum of one hundred dollars.

* NOTE: Section 18-04-05 was also amended by section 1 of Senate Bill No. 2104, chapter 253.

3. To each rural fire department not certified by the state fire marshal, the sum of two hundred dollars per year.
4. To each rural fire protection district organized within the provisions of this title or rural fire department certified by the state fire marshal, two hundred dollars plus a sum equal to two and one-fourth percent of the premiums, excluding crop hail insurance premiums received by insurance companies issuing policies for fire, allied lines, homeowner's multiple peril, farmowner's multiple peril, and commercial multiple peril insurance on property within the boundaries of such rural fire protection districts or property served by certified rural fire departments.

There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated as a standing and continuing appropriation, such sums as may be necessary to make payments as provided in this section. The amount distributed by the commissioner of insurance pursuant to this section shall may not exceed the amount of the biennial appropriation made by the legislative assembly. Payments by the commissioner of insurance in any fiscal year shall may not exceed one-half of the biennial appropriation made by the legislative assembly. If the appropriation is less than the amount determined by applying the formula pursuant to this section, ~~proration shall be made by the commissioner of insurance that provides by proration shall provide~~ each eligible recipient the same proportion of the appropriation as the percent of the total funds it would have received pursuant to such formula.

SECTION 33. AMENDMENT. Subdivision h of subsection 1 of section 19-03.1-36 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- h. All money, coin, currency, and everything of value furnished, or intended to be furnished, in exchange for a controlled substance in violation of this chapter, and all proceeds traceable to any violation of this chapter. The property described in this ~~section~~ subdivision shall be forfeited in the same manner and procedure as conveyances.

* SECTION 34. AMENDMENT. Section 21-06-10 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-06-10. Moneys received through leasing of lands acquired by United States for flood control distributed to counties for schools and roads. The state treasurer shall pay the funds so received, as in said under Public Law 79-526 [60 Stat. 642; 33 U.S.C. 701c-3] set forth, by any county in this state, the treasurer of the state of North Dakota shall pay over to the county or counties entitled thereto as in said public law set forth. The first one-half One-half of such the funds

* NOTE: Section 21-06-10 was also amended by section 1 of House Bill No. 1484, chapter 283.

shall be distributed to the school districts which have lost land subject to taxation by reason of the acquisition of lands by the United States on the basis of the proportionate amount of such lands acquired by the United States. If all of the land in any ~~such~~ district ~~shall have~~ has been acquired by the United States, the share of ~~such~~ the funds assignable to ~~such~~ the district shall be paid into, and disbursed in the manner provided by law for, the county tuition fund. ~~The next quarter~~ One-fourth of ~~such~~ the funds shall be paid to such counties for road purposes to be expended as the county commissioners ~~shall~~ determine. ~~The final quarter~~ One-fourth of ~~such~~ the funds shall be distributed to the organized townships, if any, within each county for road purposes to be expended as the township supervisors ~~shall~~ determine. This amount shall be allocated among the various organized townships on the basis of the proportionate true and full valuation, including property valued pursuant to section 57-02-14, of ~~such~~ the property within that county. If any area of a county does not lie within an organized township but creates an impact whereby ~~such~~ the land is only assessable through an organized township, such funds shall be allocated to that township. If any area of a county does not lie within an organized township, a portion of the final quarter of such funds ~~shall~~ must be allocated to the county on the basis of the proportionate true and full valuation, including property valued pursuant to section 57-02-14, of ~~such~~ the property within that county. This section ~~shall apply~~ applies to all funds heretofore received or to be received by the counties entitled thereto.

SECTION 35. AMENDMENT. Subsection 4 of section 23-28-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. A cause of action claim for relief against a law enforcement officer does not arise from ~~his~~ the officer making a reasonable search of the disabled person to locate an identifying device or identification card, even though the person is not wearing an identifying device or carrying an identification card.

SECTION 36. AMENDMENT. Subsection 2 of section 23-28-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. A cause of action claim for relief against a medical practitioner does not arise from ~~his~~ the practitioner making a reasonable search of a disabled person to locate an identifying device or identification card, even though the person is not wearing an identifying device or carrying an identification card.

SECTION 37. AMENDMENT. Subsection 2 of section 23-28-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. A cause of action claim for relief does not arise from a reasonable search to locate an identifying device or identification card as authorized by subsection 1.

SECTION 38. AMENDMENT. Section 25-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-02-01. State hospital for the mentally ill - Location - Title - Administration and control. An institution for the care of the mentally ill shall be maintained at the city of Jamestown and shall be known as the state hospital. The department of human services shall administer and control the state hospital.

SECTION 39. AMENDMENT. Section 26.1-21-01 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

26.1-21-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Blanket bond" means a bond which covers collectively all public employees and public officials without the necessity of scheduling names or positions as a part of the bond, and a bond whereby new public employees and new public officials entering employment or office during the period of the bond are automatically included without notice to the fund.
2. "~~Commissioner~~" means the commissioner of insurance.
- 3- "Fund" means the state bonding fund.
- 4- 3. "Political subdivision" means a county, city, township, school district or park district, or any other unit of local government.
- 5- 4. "Public employee" means and includes any and all persons person employed by the state or any of its political subdivisions, officers and employees an officer or employee eligible under section 57-15-56, and employees an employee under section 61-16.1-05 except for persons. "Public employee" does not include a person employed by the an occupational and professional boards and commissions board or commission under title 43, and or by the state bar association.
- 6- 5. "Public official" means any officer or deputy, either elected or appointed, of the state or any of its political subdivisions who is required to be bonded by any law of this state, except for officers an officer of the an occupational and professional boards and commissions board or commission under title 43, and or of the state bar association.

7- 6. "State" means state departments, agencies, industries, and institutions.

* SECTION 40. AMENDMENT. Section 27-08.1-01 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08.1-01. Small claims court - Jurisdictional limits - Effective date.

All judges of the county courts shall exercise the jurisdiction conferred by this chapter, and while sitting in the exercise of said jurisdiction shall be known and referred to as the "small claims court". The jurisdiction of such court ~~shall be~~ is confined to cases for recovery of money, or the cancellation of any agreement involving material fraud, deception, misrepresentation, or false promise, where the value of the agreement or the amount claimed by the plaintiff or the defendant does not exceed one thousand five hundred dollars. The proceedings in this court shall be commenced in the county of the defendant's residence, if the defendant is a natural person. If the defendant is a corporation or a partnership, the proceedings shall be commenced in any county in which the defendant has a place of business or in any county in which the subject matter of the claim arose. No claim ~~shall may~~ be filed by an assignee of that claim. No garnishment or attachment ~~shall may~~ issue from this court. Actions commenceable in the small claims court ~~shall are~~ only be those in which the cause of action claim for relief has accrued on or after January 1, 1971.

SECTION 41. AMENDMENT. Section 27-19-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-19-01. Assumption of jurisdiction. In accordance with the

provisions of Public Law ~~280 of the 83rd Congress~~ 83-280 and section ~~203~~ 1 of article XI of the Constitution of North Dakota ~~constitution~~, jurisdiction of the state of North Dakota shall be extended over all civil causes of action claims for relief which arise on an Indian reservation upon acceptance by Indian citizens in a manner provided by this chapter. Upon acceptance the jurisdiction of the state ~~shall be~~ is to the same extent that the state has jurisdiction over other civil causes of action claims for relief, and those civil laws of this state that are of general application to private property ~~shall~~ have the same force and effect within such Indian reservation or Indian country as they have elsewhere within this state.

SECTION 42. AMENDMENT. Section 27-19-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-19-04. Effective date. The provisions of this This chapter

~~shall affect~~ affects only those causes of action claims for relief which arise after the effective date of state jurisdiction as provided in section 27-19-03.

SECTION 43. AMENDMENT. Section 27-19-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* NOTE: Section 27-08.1-01 was also amended by section 1 of House Bill No. 1588, chapter 340.

27-19-09. Tribal ordinances and customs preserved. Any tribal ordinance or custom heretofore or hereafter adopted by any Indian tribe, band, or community, in the exercise of any authority which it may possess shall, if not inconsistent with the applicable civil law of this state, be given full force and effect in the determination of civil causes of action claims for relief pursuant to this section.

SECTION 44. AMENDMENT. Section 27-19-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-19-12. Withdrawal proclamation. Upon the filing of a petition for withdrawal from the civil jurisdiction of the state, the executive director of the North Dakota Indian affairs commission after substantiating that the provisions of section 27-19-11 have been complied with shall certify such withdrawal to the governor. Upon such certification the governor shall, within ten days, issue a proclamation proclaiming that thirty days from the date of the issuance of such proclamation the civil jurisdiction of the state shall be terminated except as to those causes of action claims for relief which arose prior to the effective date of such termination or to those contractual obligations which were incurred prior to the effective date of such termination of state civil jurisdiction.

SECTION 45. AMENDMENT. Section 27-19-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-19-13. Individual withdrawal. An individual who has accepted state civil jurisdiction under the provisions of section 27-19-05 may withdraw upon filing with the county auditor a statement declaring his withdrawal. ~~Such withdrawal shall~~ Withdrawal does not affect causes of action claims for relief which arose prior to ~~such the~~ withdrawal or contractual obligations which were incurred prior to ~~such the~~ withdrawal.

SECTION 46. AMENDMENT. Section 28-01-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-01-05. Actions founded upon title to real estate or to rents or services therefrom - Limitations. No cause of action claim for relief, or defense, or counterclaim to an action founded upon the title to real property, or to rents or service out of the same, ~~shall be is~~ is effectual unless it appears that the person prosecuting the action or interposing the defense or counterclaim, or under whose title the action is prosecuted or the defense or counterclaim is made, or the ancestor, predecessor, or grantor of such person, was seized or possessed of the premises in question within twenty years before the committing of the act in respect to which such action is prosecuted or such defense or counterclaim is made.

SECTION 47. AMENDMENT. Section 28-01-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-01-14. **Disabilities extend limitations on actions affecting real estate.** If a person who is entitled to maintain any of the actions affecting real estate mentioned in this chapter, or entitled to interpose a defense or counterclaim to such an action, or entitled to make an entry upon real property is:

1. Under the age of eighteen years;
2. Insane; or
3. Imprisoned on a criminal charge, or in execution upon conviction of a criminal offense for a term less than for life,

at the time his title first descends or his cause of action claim for relief or right of entry first accrues, or when such defense or counterclaim might be interposed, the time of such disability is not a part of the time in this chapter limited for the commencement of such action, or the making of such entry, or the interposing of such defense or counterclaim. However, the time so limited cannot be extended more than ten years after the disability ceases or after the death of the person so disabled.

SECTION 48. AMENDMENT. Section 28-01-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-01-15. **Actions having ~~ten years~~ ten-year limitations.** The following actions must be commenced within ten years after the cause of action claim for relief has accrued:

1. An action upon a judgment or decree of any court of the United States or of any state or territory within the United States;
2. An action upon a contract contained in any conveyance or mortgage of or instrument affecting the title to real property except a covenant of warranty, an action upon which must be commenced within ten years after the final decision against the title of the covenantor; and
3. Any action or proceeding for the foreclosure of a mortgage upon real estate.

SECTION 49. AMENDMENT. Section 28-01-16 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-01-16. **Actions having six-year limitations.** The following actions must be commenced within six years after the cause of action claim for relief has accrued:

1. An action upon a contract, obligation, or liability, express or implied, subject to the provisions of sections 28-01-15 and 41-02-104.

2. An action upon a liability created by statute, other than a penalty or forfeiture, when not otherwise expressly provided.
3. An action for trespass upon real property.
4. An action for taking, detaining, or injuring any goods or chattels, including actions for the specific recovery of personal property.
5. An action for criminal conversation or for any other injury to the person or rights of another not arising upon contract, when not otherwise expressly provided.
6. An action for relief on the ground of fraud in all cases both at law and in equity, the cause of action claim for relief in such case not to be deemed to have accrued until the discovery by the aggrieved party of the facts constituting the fraud.

SECTION 50. AMENDMENT. Section 28-01-17 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-01-17. Actions having three-year limitations - Exceptions. The following actions must be commenced within three years after the cause of action claim for relief has accrued:

1. An action against a sheriff, coroner, or constable upon a liability incurred by the doing of an act in his official capacity and by virtue of his office, or by the omission of an official duty, including the nonpayment of money collected upon an execution. However, this subsection ~~shall~~ does not apply to an action for an escape.
2. An action upon a statute for a penalty or forfeiture, if the action is given to the party aggrieved, or to such party and the state, unless the statute imposing it prescribes a different limitation.
3. An action for the foreclosure of a mechanic's lien.

SECTION 51. AMENDMENT. Section 28-01-18 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-01-18. Actions having two-year limitations. The following actions must be commenced within two years after the cause of action claim for relief has accrued:

1. An action for libel, slander, assault, battery, or false imprisonment.

2. An action upon a statute for a forfeiture or penalty to the state.
3. An action for the recovery of damages resulting from malpractice; provided, however, that the limitation of an action against a physician or licensed hospital will not be extended beyond six years of the act or omission of alleged malpractice by a nondiscovery thereof unless discovery was prevented by the fraudulent conduct of the physician or licensed hospital. This limitation ~~shall~~ be is subject to the provisions of section 28-01-25.
4. An action for injuries done to the person of another, when death ensues from such injuries, and the cause of action claim for relief shall be deemed to have accrued at the time of the death of the party injured; provided, however, that when death ensues as the result of malpractice, the cause of action shall be claim for relief is deemed to have accrued at the time of the discovery of the malpractice. However, the limitation will not be extended beyond six years of the act or omission of alleged malpractice by a nondiscovery thereof unless discovery was prevented by the fraudulent conduct of the physician or hospital.
5. An action for recovery of damages arising under chapter 5-01, and the cause of action shall be claim for relief is deemed to have accrued at the time of the alleged offense. This limitation ~~shall~~ does not apply to any cause of action claim for relief existing at the time of the enactment of this subsection.

SECTION 52. AMENDMENT. Section 28-01-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-01-19. Actions having one-year limitations. An action against a sheriff or other officer for the escape of a prisoner arrested or imprisoned on civil process must be commenced within one year after the cause of action claim for relief has accrued.

SECTION 53. AMENDMENT. Section 28-01-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-01-22. Limitations on actions not specifically provided for. An action for relief not otherwise provided for must be commenced within ten years after the cause of action shall have claim for relief has accrued.

SECTION 54. AMENDMENT. Section 28-01-22.1 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-01-22.1. Actions against state - Limitation. When not otherwise specifically provided by law, an action against the state or its

employees and officials acting within the scope of their employment or office must be commenced within six years after the cause of action claim for relief has accrued. This may not be construed as a waiver of immunity.

SECTION 55. AMENDMENT. Section 28-01-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-01-24. Limitations on claims for relief fraudulently concealed. When, by fraud or fraudulent concealment, a party against whom a cause of action claim for relief exists prevents the person in whose favor such cause of action claim for relief exists from obtaining knowledge thereof, the latter may commence an action within one year from the time the cause of action claim for relief is discovered by him or might have been discovered by him in the exercise of diligence. Such fraud or fraudulent concealment must be established to the satisfaction of the court or jury, as the case may be, by a fair preponderance of the evidence.

SECTION 56. AMENDMENT. Section 28-01-25 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-01-25. Disabilities extend limitations on actions generally - Exceptions. If a person who is entitled to bring an action other than for the recovery of real property, or for a penalty or forfeiture, or against a sheriff or other officer for an escape is:

1. Under the age of eighteen years;
2. Insane; or
3. Imprisoned on a criminal charge or in execution under the sentence of a criminal court for a term less than for life,

at the time the cause of action claim for relief accrues, the time of such disability is not a part of the time limited for the commencement of the action. However, the period within which the action must be brought cannot be extended more than five years by any such disability except infancy, nor can it be extended in any case longer than one year after the disability ceases. In cases alleging professional malpractice, the extension of the limitation due to infancy is limited to twelve years.

SECTION 57. AMENDMENT. Section 28-01-26 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-01-26. Limitation in case of death. If a person entitled to bring an action dies before the expiration of the time limited for the commencement thereof and the cause of action claim for relief survives, an action may be commenced by his representatives after the expiration of that time and within one year from his death. If

a person against whom an action may be brought dies before the expiration of the time limited for the commencement thereof and the cause of action claim for relief survives and is not one based upon a claim which may be filed proceeding under title 30.1, an action may be commenced against his personal representative after the expiration of that time and within one year after the issuing of letters.

SECTION 58. AMENDMENT. Section 28-01-26.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-01-26.1. Survival of causes of action claims for relief. No action or cause of action claim for relief, except for breach of promise, alienation of affections, libel and slander, ~~shall abate~~ abates by the death of a party or of a person who might have been a party had such death not occurred.

SECTION 59. AMENDMENT. Section 28-01-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-01-28. Limitation when judgment reversed. If an action is commenced within the time prescribed therefor and the judgment therein is reversed on appeal, the plaintiff, or, if he dies and the cause of action claim for relief survives, his heirs or representatives, may commence a new action within one year after the reversal.

SECTION 60. AMENDMENT. Section 28-01-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-01-30. When limitation for disability available. No person can avail himself of a disability, unless it existed when his ~~right of action~~ claim for relief accrued.

SECTION 61. AMENDMENT. Section 28-01-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-01-31. Limitation for coexisting disabilities. When two or more disabilities coexist at the time the ~~right of action claim for relief~~ claim for relief accrues, the limitation does not attach until they are all removed.

SECTION 62. AMENDMENT. Section 28-01-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-01-32. Absence from state tolls limitations - Exception. If any person ~~shall be is~~ out of this state at the time a cause of action claim for relief accrues against him, an action on such cause of action claim for relief may be commenced in this state at any time within the term limited in this chapter for the bringing of an action on such cause of action claim for relief after the return of such person into this state. If any person ~~shall depart~~ departs from and ~~reside~~ resides out of this state and ~~remain~~ remains

continuously absent therefrom for the space of one year or more after a cause of action shall have claim for relief has accrued against him, the time of his absence shall may not be taken as any part of the time limited for the commencement of an action on such cause of action claim for relief. The provisions of this section, however, shall do not apply to the foreclosure of real estate mortgages by action or otherwise.

SECTION 63. AMENDMENT. Section 28-01-37 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-01-37. When cause of action claim for relief upon open account accrues. In an action brought to recover a balance due upon a mutual open, and current account, when there have been reciprocal demands between the parties, the cause of action shall be claim for relief is deemed to have accrued from the time of the last item proved in the account on either side.

SECTION 64. AMENDMENT. Section 28-01-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-01-42. Cancellation or enforcement of contract for sale of real estate - Limitation - When time begins to run - Commencement of proceedings. No action or proceeding shall may be maintained by a person out of possession to cancel or enforce any contract for the sale or conveyance of real estate, after twenty years from the date of said contract, as shown by the record of such instrument, or after twenty years from the date of recording of any instrument which describes or refers to such contract, which itself is not of record, unless the record of such contract or other instrument shows that less than ten years have elapsed since the due date of the last payment on the indebtedness or part thereof, secured thereby, or since the right of action claim for relief has accrued thereon, or unless the record shows an extension of the maturity of the instrument or of the debt or a part thereof, and that ten years from the expiration of the time of such extension has not yet expired. The limitation of this section shall may not be extended by the nonresidence of any plaintiff or defendant or of any vendor or vendee, nor by reason of any payment made after the due date of the last payment on the indebtedness or part thereof, nor by reason of any disability of any party interested in the contract.

* **SECTION 65. AMENDMENT.** Subsection 2 of section 28-01.1-02 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The provisions of this This section shall apply applies to all persons, regardless of minority or other legal disability, but shall does not apply to any cause of action claim for relief where the personal injury, death, or damage to property occurs within two years after July 1, 1979.

* **NOTE:** Section 28-01.1-02 was also amended by section 1 of House Bill No. 1510, chapter 344.

SECTION 66. AMENDMENT. Section 28-05-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-05-07. Lis pendens - Effect. In a civil action in a district court affecting the title to real property, the plaintiff, at the time of filing the complaint or at any time afterwards, or the defendant, when he sets up in his answer an affirmative cause of action claim for relief affecting the title to real property and demands substantive relief, at the time of filing his answer or at any time afterwards, may file for record with the register of deeds of each county in which the real property is situated a notice of the pendency of the action, containing the names of the parties, the object of the action, and a description of the real property affected. From the time of filing only shall the pendency of the action be constructive notice to a purchaser or encumbrancer of the property affected thereby, and every person whose conveyance or encumbrance is subsequently executed or subsequently recorded ~~shall~~ be is deemed a subsequent purchaser or encumbrancer with notice and shall be bound by all proceedings taken after the filing of such notice to the same extent as if he were a party to the action. For the purpose of this section, an action ~~shall be~~ is deemed to be pending from the time of filing such notice but such notice ~~shall be~~ is of no avail unless it ~~shall be~~ is followed by the first publication of the summons, or by the personal service thereof on a defendant, within sixty days after such filing.

SECTION 67. AMENDMENT. Subsection 4 of section 28-14-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Having served as a juror or been a witness on a previous trial between the same parties for the same cause of action claim for relief;

SECTION 68. AMENDMENT. Section 28-22-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-22-07. How exemptions claimed - Appraisal. All property claimed as exempt shall be selected by the debtor, his agent, or attorney. The value thereof, when material, shall be determined by an appraisement made under the direction of the sheriff or other officer. Whenever any debtor, against whom an execution, ~~warrant~~ writ of attachment, or other process has been issued, desires to avail himself of the benefit of section 28-22-03, such debtor, his agent, or attorney, shall make a schedule of all his personal property of every kind and character, including money on hand and debts due and owing to him, and shall deliver the same to the officer having the execution, ~~warrant~~ writ of attachment, or other process. The schedule shall be subscribed and sworn to by the debtor, his agent, or attorney, and any property owned by the debtor and not included in such schedule shall not be exempt. No claim for exemptions shall be disallowed for insufficiency as to form unless three days' notice in writing shall have been given first of the insufficiency by the party in interest claiming such insufficiency

to the person making the claim for exemptions, and specifying in apt language the defect complained of. The person claiming the exemption thereupon may amend the same to conform to the objections made within three days, if he desires so to do, by serving upon the proper person an amended claim for exemptions.

SECTION 69. AMENDMENT. Section 28-24-02 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-24-02. Payment on and period of redemption. The judgment debtor or redemptioner may redeem the property from the purchaser within one year (six months in redemptions under subsection 1 of section ~~32-10-1-04~~ 32-19.1-04) after the sale on paying the purchaser the amount of the purchase with interest at the rate provided in the original instrument on which the judgment is based, plus the amount of any insurance premiums, assessments, taxes, utilities, or other items paid by the purchaser in protection of the title or the premises, which the purchaser may have paid after the purchase, and interest at the same rate on that amount, and, if the purchaser is also a creditor having a lien superior to that of the redemptioner other than the judgment under which the purchase was made, the amount of that lien with interest.

SECTION 70. AMENDMENT. Section 28-26-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-26-08. Costs specially limited. In an action for assault, battery, false imprisonment, libel, slander, malicious prosecution, criminal conversation, or seduction, if the plaintiff recovers less than fifty dollars damages, he ~~shall~~ may recover no more costs and disbursements than damages. In an action to recover the possession of personal property, if the plaintiff recovers less than fifty dollars damages, he ~~shall~~ may recover no more costs and disbursements than damages, unless he recovers property also, the value of which with the damages amounts to fifty dollars, or the possession of property is adjudged to him, the value of which with the damages amounts to fifty dollars. Such value must be determined by the jury, court, or referee by whom the action is tried. When several actions ~~shall be~~ are brought on one bond, recognizance, promissory note, bill of exchange, or other instrument in writing, or in any other case for the same ~~cause of action~~ claim for relief against several parties who might have been joined as defendants in the same action, no costs other than disbursements ~~shall~~ may be allowed to the plaintiff in more than one of such actions, which must be at his election, if the party or parties proceeded against in such action or actions, at the time of the commencement of the previous action or actions, ~~shall have~~ has been openly within this state and not secreted.

SECTION 71. AMENDMENT. Section 28-26-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-26-24. Liability for costs on judgment against assignee. In an action in which the cause of action claim for relief, by assignment after the commencement of the action or in any other manner, ~~shall become~~ becomes the property of a person not a party to the action, such person ~~shall be~~ is liable for the costs in the same manner as if he were a party.

SECTION 72. AMENDMENT. Subdivision a of subsection 1 of section 28-32-01 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- a. The office of management and budget except with respect to rules relating to the central personnel system as authorized under section 54-44.3-07 ~~and~~, rules relating to state purchasing practices as required under section 54-44.4-04, rules relating to records management as authorized or required under chapter 54-46, and rules relating to the central microfilm unit as authorized under chapter 54-46.1.

SECTION 73. AMENDMENT. Section 30.1-12-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

30.1-12-09. (3-109) Statutes of limitation on decedent's cause of action claim for relief. No statute of limitation running on a cause of action claim for relief belonging to a decedent which had not been barred as of the date of his death ~~shall apply~~ applies to bar a cause of action claim for relief surviving the decedent's death sooner than four months after death. A cause of action claim for relief which, but for this section, would have been barred less than four months after death is barred after four months unless tolled.

SECTION 74. AMENDMENT. Subsection 2 of section 32-08.1-03 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. In tort actions the affidavit ~~shall~~ must state that a cause of action claim for relief in tort exists in favor of the plaintiff and against the defendant, that the damages sustained exceed fifty dollars specifying the amount claimed and either:
 - a. The defendant is not a resident of this state; or that his residence is unknown and cannot with due diligence be ascertained; or
 - b. The defendant is a foreign corporation.

SECTION 75. AMENDMENT. Section 32-12.1-10 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-12.1-10. Statute of limitations. An action brought under this chapter must be commenced within three years after the cause of action claim for relief has accrued.

SECTION 76. AMENDMENT. Section 32-13-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-13-05. Complaint for usurping office - Arrest of defendant. The complaint in an action commenced against a person for usurping an office in addition to the statement of the cause of action claim for relief also may set forth the name of the person rightfully entitled to the office with a statement of his right thereto, and in such case, upon proof by affidavit that the defendant has received fees or emoluments belonging to the office and by means of his usurpation thereof, an order may be granted by the judge of the court for the arrest of such defendant.

SECTION 77. AMENDMENT. Section 32-15-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-15-06. Entry for making surveys. In all cases when land is required for public use, the person or corporation, or his or its agents, in charge of such use may survey and locate the same, but it must be located in the manner which will be compatible with the greatest public benefit and the least private injury and subject to the provisions of section 32-15-21. Whoever may be is in charge of such public use may enter upon the land and make examinations, surveys, and maps thereof, and such entry shall constitute constitutes no cause of action claim for relief in favor of the owner of the land except for injuries resulting from negligence, wantonness, or malice.

SECTION 78. AMENDMENT. Section 32-17-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-17-04. Complaint form - Description of property. In an action for the determination of adverse claims, the property must be described in the complaint with such certainty as to enable an officer upon execution to identify it. In other respects the complaint, exclusive of the venue, title, subscription, and verification, may be substantially in the following form, the blanks being properly filled:

The plaintiff for cause of action claim for relief shows to the court that he has an estate or interest in, or a lien or encumbrance upon, as the case may be, the following described real property, situated in the above-named county and state, to wit: -----

That the defendants claim certain estates or interests in, or liens or encumbrances upon, the same, as the case may be, adverse to plaintiff. (Here allege the facts concerning use and occupation and value thereof, and any property wasted or removed and the value thereof, if pertinent. Where the state

is named as a party defendant, the complaint must state the interest the state or its agencies or departments might have in the property; or in the alternative state that the complainant is not aware of any specific interest that the state might have in the property.)

Wherefore, plaintiff prays:

1. That the defendants be required to set forth all their adverse claims to the property above described, and that the validity, superiority, and priority thereof be determined.
2. That the same be adjudged null and void, and that they be decreed to have no estate or interest in, or lien or encumbrance upon, said property.
3. That this title be quieted as to such claim, and that defendants be forever debarred and enjoined from further asserting the same.
4. That he recover possession of the premises described, if possession is desired.
5. That he recover ----- dollars as the value of the use and occupation and value of property wasted and removed therefrom.
6. That he have such other general relief as may be just, together with costs and disbursements.

SECTION 79. AMENDMENT. Section 32-19-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-19-30. Service by publication - How made. Service of the summons may be made by publication if the plaintiff shall file files a verified complaint in the office of the clerk of the district court of the county where the action is commenced, setting forth a cause of action claim for relief in favor of the plaintiff and against the defendants, for the foreclosure of a mortgage or other lien upon real estate, and when the plaintiff shall file files in said office an affidavit signed by the plaintiff or his attorney substantially in the following form:

STATE OF NORTH DAKOTA)
) ss.
 County of -----)

----- being first duly sworn upon oath
 deposes and says that he is the (attorney for)
 ----- plaintiff in the above entitled action:

Affiant further says that the defendants (naming them) ----- appear to have an interest in or lien or encumbrance upon the real estate described in the complaint in this action, that such interest or lien is subject and inferior to the lien of the plaintiff being foreclosed; that plaintiff seeks no personal judgment against the defendants, if any, (naming them) ----- and seeks only to bar and exclude said defendants from any interest in or lien or encumbrance upon the real estate described in the complaint, save and except the right of redemption as provided by law; that the residences of the defendants, if any, (naming them) ----- are not shown upon the records of the office of the register of deeds, county auditor, or clerk of the district court of ----- County, that being the county in which the real estate involved in this action is situated; that the residences of the defendants, if any, (naming them) ----- are as follows: -----; that affiant does not know the residences of the defendants, if any, (naming them) -----; that the defendants, if any, (naming them) ----- are deceased, and it does not appear by the records in the office of the judge of the county court in and for ----- County, that being the county in which the real estate described in the complaint in the action is situated, that any administration upon the estate of said defendant is now pending; and that the defendants, if any, (naming them) ----- are deceased, and that ----- of ----- is the duly appointed, qualified, and acting administrator or executor, as the case may be, of the estate of said deceased.

* SECTION 80. AMENDMENT. Section 32-20-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-20-02. Warrant to seize property. If the plaintiff is not in possession of the property, the clerk of the court in which the action is commenced, at the time of the commencement of the action or at any time before judgment, may issue a warrant commanding the sheriff to seize and safely keep the same to abide the final judgment in the action. Such warrant may be issued upon the filing of a verified complaint with the clerk setting forth a ~~cause of action~~ claim for relief in favor of the plaintiff and against the defendant for the foreclosure of a lien upon the property possession of which is sought to be obtained. The sheriff immediately must execute the warrant by seizing the property and holding the same until disposed of according to law.

** SECTION 81. AMENDMENT. Section 32-20-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-20-03. Form of warrant. The warrant mentioned in section 32-20-02, exclusive of the venue and title of the action, ~~shall~~ must be in substantially the following form:

* NOTE: Section 32-20-02 was also amended by section 1 of Senate Bill No. 2085, chapter 378.

** NOTE: Section 32-20-03 was repealed by section 5 of Senate Bill No. 2085, chapter 378.

To the sheriff of the county of -----:

The plaintiff in the above entitled action having filed in my office a verified complaint setting forth a cause of action claim for relief in favor of the plaintiff and against the defendant above named for the foreclosure of a lien upon the personal property hereinafter described and having given the undertaking required by law;

Now, therefore, you are hereby commanded immediately to seize and safely keep, until disposed of according to law, the following described personal property belonging to the defendant ----- situated in the county of ----- and state of North Dakota, to wit: (Here insert description of property).

~~Such~~ The warrant shall be attested and sealed in the same manner as a ~~warrant~~ writ of attachment.

SECTION 82. AMENDMENT. Subsection 3 of section 32-22-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- 3. If in a civil action the party has been discharged for any illegality in the order, judgment, or process and afterwards is imprisoned by legal process for the same cause of action claim for relief.

SECTION 83. AMENDMENT. Subsection 4 of section 32-38-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- 4. If there is no judgment for the injury or wrongful death against the tort-feasor seeking contribution, his right of contribution is barred unless he has either discharged by payment the common liability within the statute of limitations period applicable to claimant's right of action claim for relief against him and has commenced his action for contribution within one year after payment, or agreed while action is pending against him to discharge the common liability and has within one year after the agreement paid the liability and commenced his action for contribution.

* SECTION 84. AMENDMENT. Section 32-39-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-39-03. Agreement by parties - Credit for payment. Upon final voluntary compromise settlement of the claim, the parties may make any agreement they desire concerning previous voluntary partial payments. If the claim is tried in a court, after entry of judgment involving the claim, any such voluntary partial payment shall be treated as a credit against the judgment and shall be deducted from the amount of the judgment. If, after entry of judgment involving

* NOTE: Section 32-39-03 was also amended by section 3 of House Bill No. 1066, chapter 379.

the claim, it ~~shall be~~ is determined by the judgment that the amount of injury or damages is less than the voluntary payments already made, the payer of the payments ~~shall have~~ has no ~~right of action claim for relief~~ for the recovery of amounts by which the voluntary payments exceed such final court judgment.

SECTION 85. AMENDMENT. Section 34-01-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-01-13. Actions under Fair Labor Standards Act must be brought within certain time. All suits and actions for the recovery of overtime, damages, fees or penalties accruing under laws respecting the payment of wages, and specifically under the Act of Congress known as the Fair Labor Standards Act of 1938 [Pub. L. 75-718; 52 Stat. 1060; 29 U.S.C. 201 et seq.], as same has been or may hereafter be amended, and all other similar acts ~~shall must~~ be brought within two years after the accrual of such ~~cause of action claim for relief~~, and all ~~causes of action claims for relief~~ accruing prior to the date hereof ~~shall must~~ be brought within one year after passage of this section. This section ~~shall does~~ not affect suits pending at the time of its passage.

SECTION 86. AMENDMENT. Section 34-06.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-06.1-05. Collection of unpaid wages and other relief. Any employer who violates the provisions of section 34-06.1-03 ~~shall be~~ is liable to the employee or employees affected in the amount of their unpaid wages, and in instances of willful violation in employee suits up to an additional equal amount as liquidated damages. Action to recover such liability may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated. The court in such action shall, in cases of violation in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action. ~~No~~ An agreement by any such employee to work for less than the wage to which such employee is entitled under this chapter ~~shall be~~ is not a bar to any such action, or to a voluntary wage restitution of the full amount due under this chapter. At the written request of any employee claiming to have been paid less than the wage to which he may be entitled under this chapter, the commissioner may bring any legal action necessary in behalf of the employee to collect such claim for unpaid wages. The commissioner ~~shall may~~ not be required to pay the filing fee, or other costs, in connection with such action. The commissioner ~~shall have~~ has the power to join various claims against the employer in one ~~cause of action claim for relief~~. In proceedings under this section, the court may order other affirmative action as appropriate, including reinstatement of employees discharged in violation of this chapter. The commissioner ~~shall have~~ has the power to petition any court of competent jurisdiction to restrain violations of section 34-06.1-03, and for such affirmative relief as the court may deem appropriate, including

restoration of unpaid wages and reinstatement of employees, consistent with the purpose of this chapter.

SECTION 87. AMENDMENT. Section 34-06.1-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-06.1-06. Statute of limitations. Court action under this chapter may be commenced no later than two years after the ~~cause of action~~ claim for relief occurs.

SECTION 88. AMENDMENT. Section 34-08-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-08-09. Judgment may be entered on undertaking - Notice required. The undertaking mentioned in section 34-08-08 ~~shall constitute~~ constitutes an agreement entered into by the complainant and his surety upon which a judgment may be rendered against the complainant and his surety in the same proceeding in which such undertaking is filed, and such complainant and surety, by filing the undertaking, submit themselves to the jurisdiction of the court for such purpose. Such judgment shall be rendered only after a hearing to assess damages, and the complainant and his surety shall have reasonable notice of such hearing. Nothing contained in this section ~~shall preclude~~ precludes any party having a claim ~~or cause of action for~~ relief upon such undertaking from pursuing his ordinary remedy by suit at law.

SECTION 89. AMENDMENT. Section 34-14-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-14-08. Assignment of wage claims to commissioner of labor for recovery by civil action. The commissioner of labor or his deputy ~~shall have~~ has the power and authority to take assignments of wage claims and ~~rights of action claims for relief~~ rights of action claims for relief for penalties provided by section 34-14-09, without being bound by any of the technical rules with reference to the validity of such assignments; and ~~shall have~~ has the power and authority to prosecute actions for the collection of such claims on behalf of persons who, in the judgment of the commissioner or his deputy, are entitled to the services of the commissioner or his deputy and who, in his judgment, have claims which are valid and enforceable in the courts. The commissioner or his deputy ~~shall have~~ has the power to join various claimants in one preferred claim or lien, and in case of suit to join them in one ~~cause of action claim for relief~~ cause of action claim for relief.

SECTION 90. AMENDMENT. Section 35-18-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-18-01. Hospital lien authorized for services to injured persons - Attachment to ~~rights of action~~ claims for relief, insurance, and other claims. Any charitable association, corporation, or other institution maintaining a hospital in this state ~~shall be is~~ is entitled to a lien for the reasonable value of hospitalization

services rendered to a person injured in any accident. The lien shall attach to all ~~rights of action~~ claims for relief, claims, demands, and judgments recovered on account of the injuries against persons or corporations liable to the injured person in tort for damages occasioned by negligence causing the injuries, and shall attach to the proceeds of the settlement of such claims or demands, and to insurance of the tort-feasor payable by reason of the liability occasioned by such injury, and to any insurance or indemnity payable to the injured person by any insurer.

SECTION 91. AMENDMENT. Section 35-18-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-18-05. Filing is notice to whom - Effect of payment or release of claim. The filing of a hospital statement, from the time of filing thereof, ~~shall be~~ is constructive notice to all persons of the claim of the hospital and of its right to a lien upon any claim or demand or ~~cause of action claim for relief~~ against the tort-feasors and the insurer or insurers of the tort-feasors, or an insurer of the injured person, and no release of any judgment, claim, or demand by the injured person ~~shall be~~ is valid or effective as against the lien. The person or corporation making any payment to the injured person, or to his legal representative, as compensation for injuries sustained, in settlement of a ~~cause of action claim for relief~~ claimed to exist for negligence causing such injuries, or out of insurance carried by the tort-feasor, shall remain liable to the hospital for the amount of the reasonable charges due at the time of such payment to the extent of the full amount so paid or given to the injured person.

SECTION 92. AMENDMENT. Section 35-18-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-18-11. Action on lien - Limitations. An action to enforce a hospital lien ~~shall~~ must be commenced within one year after the filing of the lien, except that when the ~~cause of action claim for relief~~ against a tort-feasor or insurer ~~shall~~ has not ~~have~~ become barred or an action is pending involving the question of liability, the lien ~~shall~~ continue ~~continues~~ in effect until the final termination of such action and for a period of one year thereafter.

SECTION 93. AMENDMENT. Section 35-27-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-27-27. Assignment of claims. Any claim for which a lien may be or has been filed and the right ~~of action~~ to recover therefor under the provisions of this chapter may be assigned by an instrument in writing. Such assignment ~~shall~~ vest ~~vests~~ in the assignee all rights and remedies herein given, subject to all defenses that might have been interposed if such assignment had not been made.

SECTION 94. AMENDMENT. Section 36-04-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-04-12. Department to become trustee upon default in dealer's bond. If any dealer defaults in the provisions of any bond provided for in this chapter, he shall be is deemed to be insolvent within the meaning of this chapter. The cause of action claim for relief for damages upon any such the bond, and the amount recovered in any cause of action claim for relief for the conversion of livestock or wool, as the case may be, purchased by such the dealer while such the license is in force and effect, shall constitute constitutes a trust fund in the hands of the department for all persons having a cause of action claim for relief against such the dealer on said bond.

SECTION 95. AMENDMENT. Section 36-04-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-04-16. Remedy of claimants - Separate action by claimant permissible. No claimant shall have has a separate cause of action claim for relief against the dealer's bond unless the department shall fail fails or refuse refuses to apply for its own appointment as trustee as provided in this chapter. The provisions of this This chapter shall does not prohibit any claimant, either independently or in conjunction with other claimants, from pursuing concurrently with the department any other remedy which he or they may have against the dealer, or against the property of the dealer, for the whole of his or their claims or for any deficiency which occurs after payments have been made from the trust fund.

SECTION 96. AMENDMENT. Section 36-22-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-22-08. Disposition of unclaimed receipts from sale of estrays. Any funds in the hands of said association, or hereinafter received by it from the sale of estrays which shall are not be claimed by the owners within one year from the posting of the notice provided for in section 36-22-07 shall be turned into in to the general fund of the association. All records relative to estrays shall be preserved by the association for a period of six years subsequent to the time the money reverts to the general fund of the association. Provided, however, that nothing herein shall bar bars the lawful owner of any estray from maintaining an action against said association for the recovery of any sum to which he may be entitled within the period of limitation given by general law governing other causes of action claims for relief of like character.

SECTION 97. AMENDMENT. Section 38-14.2-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-14.2-09. Affected lands - Right of entry. If the commission makes a finding of fact that:

1. Land or water resources have been adversely affected by past coal mining or non-coal mining practices; and

2. The adverse effects are at a stage where, in the public interest, action to restore, reclaim, abate, control, or prevent should be taken; and
3. The owners of the land or water resources where entry must be made to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining or non-coal mining practices are not known or readily available; or
4. The owner will not give permission for the commission, its agents, employees, or contractors to enter upon such property to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining or non-coal mining practices,

then, upon giving notice by mail to the owners if known or if not known by posting notice upon the premises and advertising once in the official newspaper of each county and in other daily newspapers of general circulation in each county wherein the land lies, the commission, its agents, employees, or contractors ~~shall have~~ has the right to enter upon the property adversely affected by past coal mining or non-coal mining practices and any other property to have access to such property to do all things necessary or expedient to restore, reclaim, abate, control, or prevent the adverse effects. Such entry shall be construed as an exercise of the police power for the protection of public health, safety, and general welfare and ~~shall~~ may not be construed as an act of condemnation of property nor of trespass thereon. The moneys expended for such work and the benefits accruing to any such premises so entered upon ~~shall be~~ are chargeable against such land to the extent allowed in section 38-14.2-14 and ~~shall~~ mitigate or offset any claim in or any action brought by any owner of any interest in such premises for any alleged damages by virtue of such entry; provided, however, that this provision is not intended to create new rights of action claims for relief or eliminate existing immunities.

SECTION 98. AMENDMENT. Subsection 27 of section 39-01-01 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27. "Judgment" means any judgment which ~~shall have~~ has become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state of the United States, upon a cause of action claim for relief arising out of ownership, maintenance, or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action claim for relief on an agreement of settlement for such damages.

SECTION 99. AMENDMENT. Section 39-12-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-12-11. Impounding overweight vehicle. Any vehicle found to have been moved or used upon any highway, street, or road in this state at a weight exceeding the limitations as specified in any order, ordinance, or resolution issued under the provisions of section 39-12-03 or as limited by the provisions of section 39-12-05 or ~~39-12-05-1~~, may be impounded by any peace officer and taken to a warehouse or garage for storage.

SECTION 100. AMENDMENT. Subsection 3 of section 39-16-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. "Judgment" means any judgment which ~~shall have~~ has become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state of the United States, upon a ~~cause of action claim for relief~~ cause of action claim for relief arising out of ownership, maintenance, or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a ~~cause of action claim for relief~~ cause of action claim for relief on an agreement of settlement for such damages.

* SECTION 101. AMENDMENT. Section 39-16.1-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-16.1-01. Application. The provisions of this chapter requiring the deposit of proof of financial responsibility for the future, subject to certain exemptions, ~~shall~~ apply with respect to persons who have been convicted of or forfeited bail for certain offenses under motor vehicle laws or who have failed to pay judgments upon ~~causes of action claims for relief~~ causes of action claims for relief arising out of ownership, maintenance, or use of vehicles of a type subject to registration under the laws of this state.

SECTION 102. AMENDMENT. Section 39-22.3-07 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-22.3-07. Dealer permitting license to be used by another dealer - License revoked - Penalty. Any A dealer who permits any other dealer to use ~~their~~ that first dealer's license, or permits the use of such license for the benefit of any other dealer, ~~shall have their dealer's license revoked and shall be is~~ guilty of an infraction. The registrar of motor vehicles shall revoke the license of any dealer who violates this section.

* NOTE: Section 39-16.1-01 was also amended by section 9 of Senate Bill No. 2373, chapter 429.

SECTION 103. AMENDMENT. Section 40-05.1-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-05.1-13. Vested property - ~~Rights of action~~ Claims for relief - Actions saved. The adoption of any charter hereunder or any amendment thereof shall never be construed to destroy any property, action, ~~rights of action claims for relief~~, claims, and demands of any nature or kind whatever vested in the city under and by virtue of any charter theretofore existing or otherwise accruing to the city, but all such ~~rights of action claims for relief~~, claims, or demands shall vest in and inure to the city and to any persons asserting any such claims against the city as fully and completely as though the said charter or amendment had not been adopted hereunder. The adoption of any charter or amendment hereunder shall never be construed to affect the right of the city to collect by special assessment any special assessment theretofore levied under any law or charter for the purpose of public improvements, nor affect any right of any contract or obligation existing between the city and any person, firm, or corporation for the making of any such improvements and for the purpose of collecting any such special assessments and carrying out of any such contract.

SECTION 104. AMENDMENT. Section 40-11-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-11-10. Action for violation of ordinance in corporate name - Previous prosecution, recovery, or acquittal no defense. Any action brought to recover any fine, to enforce any penalty, or to punish any violation of an ordinance of any municipality shall be brought in the corporate name of the municipality as plaintiff. A prosecution, recovery, or acquittal for the violation of any such ordinance shall ~~may~~ not constitute a defense to any other prosecution of the same person for any other violation of any such ordinance, notwithstanding that the different ~~causes of action claims for relief~~ existed at the time of the previous prosecution and if united, would not have exceeded the jurisdiction of the court.

SECTION 105. AMENDMENT. Section 40-49-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-49-17. Jurisdiction to determine actions involving violations of ordinances of board of park commissioners. Full and exclusive jurisdiction to try and determine all ~~causes of action claims for relief~~ involving violations of rules or ordinances enacted by the board of park commissioners shall be is vested in the municipal judge. The procedure, including the right of appeal, shall be is the same as in actions involving offenses against city ordinances.

SECTION 106. AMENDMENT. Subsection 1 of section 41-02-101 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. A right of action claim for relief against the third party is in either party to the contract for sale who has title to or a security interest or a special property or an insurable interest in the goods; and if the goods have been destroyed or converted a right of action claim for relief is also in the party who either bore the risk of loss under the contract for sale or has since the injury assumed that risk as against the other.

SECTION 107. AMENDMENT. Section 41-02-104 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

41-02-104. (2-725) Statute of limitations in contracts for sale.

1. An action for breach of any contract for sale must be commenced within four years after the cause of action claim for relief has accrued. By the original agreement the parties may reduce the period of limitation to not less than one year but may not extend it.
2. A cause of action claim for relief accrues when the breach occurs, regardless of the aggrieved party's lack of knowledge of the breach. A breach of warranty occurs when tender of delivery is made, except that where a warranty explicitly extends to future performance of the goods and discovery of the breach must await the time of such performance the cause of action claim for relief accrues when the breach is or should have been discovered.
3. Where an action commenced within the time limited by subsection 1 is so terminated as to leave available a remedy by another action for the same breach such other action may be commenced after the expiration of the time limited and within six months after the termination of the first action unless the termination resulted from voluntary discontinuance or from dismissal for failure or neglect to prosecute.
4. This section does not alter the law on tolling of the statute of limitations nor does it apply to causes of action claims for relief which have accrued before this title becomes effective.

SECTION 108. AMENDMENT. Section 41-03-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

41-03-22. (3-122) Accrual of cause of action claim for relief.

1. A cause of action claim for relief against a maker or an acceptor accrues:

- a. In the case of a time instrument on the day after maturity.
 - b. In the case of a demand instrument upon its date or, if no date is stated, on the date of issue.
2. A cause of action claim for relief against the obligor of a demand or time certificate of deposit accrues upon demand, but demand on a time certificate may not be made until on or after the date of maturity.
 3. A cause of action claim for relief against a drawer of a draft or an endorser of any instrument accrues upon demand following dishonor of the instrument. Notice of dishonor is a demand.
 4. Unless an instrument provides otherwise, interest runs at the rate provided by law for a judgment:
 - a. In the case of a maker, acceptor, or other primary obligor of a demand instrument, from the date of demand; and
 - b. In all other cases from the date of accrual of the cause of action claim for relief.

SECTION 109. AMENDMENT. Subsection 3 of section 41-03-68 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The liability of all parties is discharged when any party who has himself no right of action claim for relief or recourse on the instrument:
 - a. Reacquires the instrument in his own right; or
 - b. Is discharged under any provision of this chapter, except as otherwise provided with respect to discharge for impairment of recourse or of collateral (section 41-03-73).

SECTION 110. AMENDMENT. Subsection 2 of section 41-05-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. When an issuer wrongfully cancels or otherwise repudiates a credit before presentment of a draft or demand for payment drawn under it the beneficiary has the rights of a seller after anticipatory repudiation by the buyer under section 41-02-73 if he learns of the repudiation in time reasonably to avoid procurement of the required documents. Otherwise the beneficiary has an immediate right of action claim for relief for wrongful dishonor.

SECTION 111. AMENDMENT. Section 43-23-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23-10. Nonresident brokers - Reciprocity - Consent to service. A nonresident broker regularly engaged in the real estate business as a vocation, or a mortgage broker regularly engaged in the mortgage business as a vocation, and who maintains a definite place of business and is licensed in some other state, which offers the same privileges to the licensed brokers of this state, ~~shall~~ may not be required to maintain a place of business within this state. The commission shall recognize the license issued to a real estate broker or mortgage broker by another state as satisfactorily qualifying him for license as a broker, provided that ~~said~~ the nonresident broker has qualified for license in his own state and also that ~~said~~ the other state permits licenses to be issued to licensed brokers in this state. Every nonresident applicant shall file an irrevocable consent that suits and actions may be commenced against such applicant in the proper court of any county of the state in which a cause of action claim for relief may arise, in which the plaintiff may reside, by the service of any process or pleading authorized by the laws of this state, on any member of the commission, or the secretary-treasurer, said consent stipulating and agreeing that such service of such process or pleading shall be taken and held in all courts to be as valid and binding as if due service had been made upon said applicant in this state. ~~Said~~ The consent shall be duly acknowledged. Any service of process or pleading shall be by duplicate copies, one of which shall be filed in the office of the commission and the other immediately forwarded by registered ~~or certified~~ mail to the last known main office of the applicant whom said process or pleading is directed, and no default in any such proceedings or action shall be taken except upon affidavit or certificate of the commission or the secretary-treasurer, that a copy of said process or pleading was mailed to the defendant as herein required, and no judgment by default shall be taken in any such action or proceeding until after thirty days from the date of mailing of such process or pleading to the nonresident defendant.

SECTION 112. AMENDMENT. Section 43-23.1-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23.1-19. Jurisdiction. Dispositions of subdivided lands are subject to this chapter, and the district courts of this state have jurisdiction in claims ~~or causes of action~~ for relief arising under this chapter if:

1. The subdivider's principal office is located in this state; or
2. Any offer or disposition of subdivided lands is made in this state, whether or not the offeror or offeree is then present in this state, if the offer originates within this

state or is directed by the offeror to a person or place in this state and received by the person or at the place to which it is directed.

SECTION 113. AMENDMENT. Section 43-23.2-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23.2-05. Motion for dismissal - Commission may defend action. Whenever the court proceeds upon an application as set forth in this chapter, it shall order payment out of the real estate education, research, and recovery fund only upon a determination that the aggrieved party has a valid ~~cause of action~~ claim for relief within the purview of this chapter and has complied with the provisions of this chapter. The judgment ~~shall be~~ is only prima facie evidence of such ~~cause of action claim for relief~~ and for the purposes of this chapter ~~shall is~~ is not ~~be~~ be conclusive. The commission may defend any such action on behalf of the fund and ~~shall have~~ has recourse to all appropriate means of defense and review including examination of witnesses. The commission may move the court at any time to dismiss the application when it appears there are no triable issues and the petition is without merit. The motion may be supported by affidavit of any person or persons having knowledge of the facts, and may be made on the basis that the petition, and the judgment referred to therein, does not form the basis for a meritorious recovery claim within the purview of this chapter; provided, however, the commission shall give written notice at least ten days before such motion. The commission may, subject to court approval, compromise a claim based upon the application of an aggrieved party. It ~~shall is~~ is not ~~be~~ bound by any prior compromise or stipulation of the judgment debtor.

SECTION 114. AMENDMENT. Section 43-23.2-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23.2-06. Judgment debtor may defend - Default judgments. The judgment debtor may defend any such action on his own behalf and ~~shall have~~ has recourse to all appropriate means of defense and review, including examination of witnesses. Whenever an applicant's judgment is by default, stipulation, or consent, or whenever the action against the licensee was defended by a trustee in bankruptcy, the applicant ~~shall have~~ has the burden of proving his ~~cause of action claim for relief~~ for fraudulent, deceptive, or dishonest practices, or conversion of trust funds. Otherwise, the judgment ~~shall create~~ creates a rebuttable presumption of the fraudulent, deceptive, or dishonest practices, or conversion of trust funds. This presumption is a presumption affecting the burden of producing evidence.

SECTION 115. AMENDMENT. Section 43-31-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-31-06. **Consent for service of process.** Each nonresident applicant for an original license or a renewal license shall file an irrevocable consent that actions against the applicant may be filed in any appropriate court of any county of this state in which the plaintiff resides or in which some part of the transaction occurred out of which the alleged ~~cause of action~~ claim for relief arose and that process in any action may be served on the applicant by leaving two copies thereof with the attorney general. Such consent ~~shall~~ must stipulate and agree that such service of process shall be taken and held to be is valid and binding for all purposes. The attorney general shall send forthwith one copy of the process to the applicant at the address shown on the records of his office by registered ~~or certified~~ mail.

SECTION 116. AMENDMENT. Subdivision c of subsection 1 of section 43-40-16 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- c. Being convicted of an offense, as defined by section 12.1-01-04, that the board determines has a direct bearing upon a person's ability to serve the public as an occupational therapist or an occupational therapy assistant or, following conviction of any offense, the board determines that the person is not sufficiently rehabilitated under section ~~12-1-32-02-1~~ 12.1-33-02.1.

SECTION 117. AMENDMENT. Subsection 2 of section 47-16-17 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. When the greater part of the property leased, or that part which was, and which the ~~lessee~~ lessor had reason to believe was, the material inducement to the ~~lessee~~ lessee to enter into the contract, perishes from any cause other than the ordinary negligence of the lessee.

SECTION 118. AMENDMENT. Section 47-16-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-16-30. **Remedies against assignees of lessee.** Whatever remedies the lessor of any real property has against his immediate lessee for the breach of an agreement in the lease or for recovery of the possession, he also has against the assignees of the lessee for any ~~cause of action~~ claim for relief accruing while they are such assignees, except when the assignment is made by way of security for a loan and is not accompanied by possession of the premises.

SECTION 119. AMENDMENT. Section 48-02-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

48-02-15. **Claim for work or improvement - Suit on contractor's bond.** Any person who has furnished labor or material for any work or

improvement for this state, any of its departments, or any school district, city, county, or township in the state in respect of which a bond is furnished under chapter 48-01 and who has not been paid in full within ninety days after completion of his contribution of labor or materials, ~~shall have~~ has the right to sue on such bond for the amount unpaid at the time of institution of suit. However, any person having a direct contractual relationship with a subcontractor, but no contractual relationship with the contractor furnishing the bond, ~~shall does~~ not have a right of action claim for relief upon the bond unless he has given written notice to the contractor, within ninety days from the date on which the person completed his contribution, stating with substantial accuracy the amount claimed and the name of the person for whom the contribution was performed. Each notice shall be served by registered ~~or certified~~ mail, postage prepaid, in an envelope addressed to the contractor at any place he maintains an office, conducts his business, or has a residence.

The contracting body and the agent in charge of its office are authorized and directed to furnish a certified copy of the bond and the contract for which it was given to anyone making an application therefor who submits an affidavit that either he has supplied labor or materials for such work or improvement and that payment has not been made, or that he is being sued on any such bond. Applicants shall pay the actual cost of the preparation of the certified copy of the bond and the contract. The certified copy of the bond ~~shall~~ be is prima facie evidence of the contents, execution, and delivery of the original.

SECTION 120. AMENDMENT. Section 49-04.1-04 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-04.1-04. Reservation. This chapter does not limit or control any other statutory rights or ~~causes of action~~ claims for relief which may be brought by a utility.

SECTION 121. AMENDMENT. Section 51-07-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-07-09. Waiving, releasing, or barring of ease of action claim for relief before it actually has accrued prohibited. A ease of action or a right of action claim for relief arising out of the sale of personal property cannot be waived, released, or barred before such ease of action the claim for relief actually has accrued, notwithstanding any terms or provisions of any contract or other written instrument to the contrary.

SECTION 122. AMENDMENT. Subsection 3 of section 51-13-02.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The buyer waives any right of action claim for relief against the seller or holder of the contract, or other person acting on his behalf, for any illegal act committed in the collection of payments under the contract or in the repossession of the personal property.

SECTION 123. AMENDMENT. Subsection 3 of section 51-18-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Compliance with the requirements of this section shall be is a condition precedent to any right of action claim for relief by the seller or any transferee of an instrument bearing the statement required under subsection 2 against the buyer upon such instrument and shall be pleaded and proved by any person who may institute an action or suit against a buyer in respect thereof.

SECTION 124. AMENDMENT. Section 51-21-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-21-04. Civil and criminal immunity for acts of detention. Any peace officer or merchant who detains any person as permitted under section 51-21-03 ~~shall~~ may not be held civilly or criminally liable for any cause of action claim for relief allegedly arising from such detention.

SECTION 125. AMENDMENT. Subsection 3 of section 51-22-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. An action to enforce any liability created under this chapter may be brought in any court of competent jurisdiction within two years from the date on which the cause of action claim for relief arose.

SECTION 126. AMENDMENT. Section 52-04-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-04-12. Civil action to collect contributions, interest, penalties, delinquency fees - Service on nonresident employers.

- 1- Collection process of the bureau shall also be by civil action for collection of any money owing to the bureau from any source and for whatever reason, inclusive of interest thereon, penalties and delinquency fees when there is provision for such additional assessments. Costs of the action allowed by statute shall be added when judgment is awarded against the debtor, unless waived. When the debtor is a nonresident of this state and the cause of action claim for relief accrued subsequent to July 1, 1963, and prior to July 1, 1969, jurisdiction

thereof by service of process shall be governed by the provisions of this section as it appeared in chapter 334 of the 1963 North Dakota Session Laws and the Supplement to the North Dakota Century Code from July 1, 1963, to July 1, 1969, and when the cause of action claim for relief accrued subsequent to July 1, 1969, and prior to August 1, 1971, jurisdiction thereof by service of process shall be governed by the provisions of chapter 293 of the 1969 North Dakota Session Laws and chapter 28-06.1 of the Supplement to the North Dakota Century Code, and when the cause of action accrued subsequent to August 1, 1971, jurisdiction thereof by service of process shall be governed by the amended provisions of rule 4 of the North Dakota Rules of Civil Procedure adopted and promulgated by the supreme court under date of June 28, 1971.

2- Repealed by S-L- 1973, ch- 391, § 23-

3- Repealed by S-L- 1973, ch- 391, § 23-

SECTION 127. AMENDMENT. Section 52-04-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-04-16. **Limitations on actions brought by bureau.** Actions brought under section 52-04-12 must be commenced within six years after the cause of action claim for relief has accrued; provided, however, that in the case of a false or fraudulent return, or the willful failure to file a return with intent to evade any payment, proceedings in court may be begun at any time.

SECTION 128. AMENDMENT. Section 54-18-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-18-12. **Civil actions on association transactions - Names of parties - Service - Venue - Statement filing provisions inapplicable.** Civil actions may be brought against the state of North Dakota on account of causes of action claims for relief claimed to have arisen out of transactions connected with the operation of the association upon condition that the provisions of this section are complied with. In such actions the state shall be designated as the state of North Dakota, doing business as North Dakota mill and elevator association, and the service of process therein shall be made upon the manager of the association. Such actions shall be brought in the county where the association shall have its principal place of business, except as provided in sections 28-04-01 through 28-04-04, 28-04-06, and 28-04-07. The provisions of section Section 54-14-04 shall does not apply to claims against the state affected by the provisions of this section.

SECTION 129. AMENDMENT. Section 54-46-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-46-03. State records administrator. The secretary of state director of the office of management and budget is hereby designated the state records administrator, hereinafter called in this chapter referred to as the administrator. The administrator shall establish and administer in the executive branch of state government a records management program, which will apply efficient and economical management methods to the creation, utilization, maintenance, retention, and final disposition of state records.

SECTION 130. AMENDMENT. Section 54-46-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-46-11. Biennial report. The administrator shall submit a biennial report as prescribed by section 54-06-04 to the governor and of the director of the office of management and budget. In addition to any requirements established pursuant to section as required by sections 54-06-04, the report shall and 54-44-04 must describe the status and progress of programs established pursuant to this chapter and shall must include the recommendations of the administrator for improvements in the management of records in the state government.

SECTION 131. AMENDMENT. Section 54-46.1-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-46.1-01. Central microfilm unit. The secretary of state, in his capacity director of the office of management and budget, as state records administrator, shall establish and maintain a central microfilm unit and microfilm any record of any state office, agency, or department in either the executive, legislative, or judicial branch of state government, if he shall determine the cost of such microfilming is reasonable in relation to the record's historical significance or the frequency and type of use of the record. Each office, agency, and department shall reimburse the central microfilm unit for the actual costs incurred in microfilming its records, which collections shall be deposited in the general fund in the state treasury. Expenditures required for the operation of the central microfilm unit shall be made from the general fund and shall be limited to the amounts appropriated by the legislative assembly. The secretary of state administrator shall employ professional, technical, and clerical personnel as he deems necessary to carry out the duties prescribed in this chapter and shall, within the limits of the legislative appropriation, fix the salaries of all employees within the central microfilm unit. All personnel within the central microfilm unit shall be allowed their actual and necessary travel expenses at the same rate as for other employees of the state. The central microfilm unit shall be located in the state capitol building. The secretary of state is further authorized to administrator may perform microfilm services for the state institutions and for any county, when they request such services, and the secretary of state administrator agrees that the request is consistent with good records management practices.

SECTION 132. AMENDMENT. Section 54-46.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-46.1-02. Transfer of equipment - Exception - Alternative services. All microfilming equipment, except microfilm readers and reader-printers, in the state capitol building, the state highway department building, the state office building, and all other buildings on the capitol grounds shall, upon July 1, 1971, be subject to transfer and control by the secretary of state records administrator. The secretary of state shall have the authority to administrator may transfer such equipment to the central microfilm unit if, in his judgment, the needs of the central microfilm unit require such transfer and there are no special circumstances which justify an exception. Where any such equipment so transferred from any office, agency, or department was purchased from a dedicated fund or trust fund, the secretary of state administrator shall credit such office, agency, or department with an amount equal to the fair market value or fair rental value, if leased, of such equipment, and charges thereafter made to such office, agency, or department for services rendered by the central microfilm unit shall be offset against such credit. The secretary of state shall have the authority to administrator may authorize an office, agency, or department to make other arrangements for microfilm services if the central microfilm unit is unable to perform the services required or if, in his judgment, the special needs of such office, agency, or department justify such an exception.

SECTION 133. AMENDMENT. Section 54-46.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-46.1-04. Duplicate storage of microfilm records. Whenever any record or document is copied or reproduced as provided in this chapter, the secretary of state records administrator shall provide for duplicate storage of such photographic reproductions. The secretary of state administrator may enter into contracts for duplicate storage services if, in his judgment, such contracts are necessary for the safekeeping of photographic reproductions.

SECTION 134. AMENDMENT. Section 54-46.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-46.1-05. Restriction on purchases and contracts for microfilm equipment and services. No state office, agency, or department located in the city of Bismarck shall may enter into any contract or agreement for the purchase or lease of any microfilm equipment or services without the express approval of the secretary of state records administrator.

SECTION 135. AMENDMENT. Section 54-46.1-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-46.1-06. Premulgation Adoption of rules and regulations. The secretary of state shall have the authority to issue records administrator may adopt rules and regulations to establish standard procedures and practices in the development and use of the central microfilm unit.

* SECTION 136. AMENDMENT. Section 57-15-06.6 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-06.6. Levy authorized for regional or county corrections centers. The board of county commissioners of each county may levy an annual tax not exceeding the limitation in subsection 7 19.1 of section ~~57-15-06.8~~ 57-15-06.7 for the purpose of constructing, equipping, operating, and maintaining regional or county corrections centers.

SECTION 137. Subsections 19.1 and 28 to section 57-15-06.7 of the North Dakota Century Code are hereby created and enacted to read as follows:

19.1. A county levying a tax for regional or county corrections centers according to section 57-15-06.6 may levy a tax not exceeding five mills.

28. Tax levies made for paying the principal and interest on any obligations of the county evidenced by the issuance of bonds.

** SECTION 138. AMENDMENT. Section 57-15-06.8 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-06.8. County tax levies and limitations not in addition to the general fund levy. The following mill levies, expressed as mills on the dollar of taxable valuation of property within the county, may be levied by counties but are not excepted from the general mill levy limitations of section 57-15-06:

1. Counties levying a tax for county fairs according to section 4-02-26 may levy a tax not exceeding one-half of one mill.
2. Counties levying a tax according to section 4-02-27 for a county fair association may levy a tax not exceeding one-fourth of one mill.
3. Counties levying a tax in accordance with section 4-02-27.1 for a county fair association may levy a tax not exceeding one-half mill.
4. Counties levying a tax for multicounty fairs according to section 4-02-37 may levy a tax not exceeding one-half of one mill.

* NOTE: Section 57-15-06.6 was also amended by section 1 of Senate Bill No. 2237, chapter 614.

** NOTE: Section 57-15-06.8 was also amended by section 3 of Senate Bill No. 2237, chapter 614, and amended by section 3 of House Bill No. 1413, chapter 89, and amended by section 1 of Senate Bill No. 2315, chapter 615.

5. Counties levying a tax for extraordinary expenditures according to section 11-11-24 may levy a tax not exceeding three mills.
6. Counties levying a tax to establish firebreaks according to section 18-07-01 may levy a tax not exceeding five mills.
7. Counties levying a tax for regional or county corrections centers according to section 57-15-06-6 may levy a tax not exceeding five mills.

Tax levy or mill levy limitations do not apply to any statute which expressly provides that taxes authorized to be levied therein are not subject to mill levy limitations provided by law.

SECTION 139. Subsection 25.1 to section 57-15-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

25.1. Taxes levied for transportation of public school students in accordance with section 57-15-55.1.

SECTION 140. Subsection 5.1 to section 57-15-20.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

5.1. A township levying a tax for a legal contingency fund in accordance with section 57-15-22.2 may levy a tax not exceeding ten mills for not to exceed five years.

* SECTION 141. AMENDMENT. Section 57-15-22.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-22.2. Levy of taxes for township legal contingency fund. Upon presentation of a petition signed by twenty-five percent of the electors in an organized or unorganized township voting in the last gubernatorial election, the governing body of an organized township or the board of county commissioners, for unorganized townships, may call a special election for the purpose of voting on the question of authorizing an excess levy on property within the township for the current year and not to exceed four succeeding years, or may submit the question to the voters at the next regular township election, for organized townships, or at the next regular election, for unorganized townships. If a special election is called, the election shall be held not later than September first of the year in which the tax is to be levied, and the election shall be conducted as other elections of the political subdivision are conducted. The levy permitted by this section shall be in addition to all other levies authorized by law and shall be in an amount not to exceed ten mills on the taxable value of property in the township for not to exceed five years may not exceed the limitation in subsection 5.1 of section 57-15-20.2. Revenues from the levy shall be deposited in a

* NOTE: Section 57-15-22.2 was also amended by section 100 of House Bill No. 1059, chapter 235.

special fund in the township or county treasury known as the legal contingency fund. Revenue in the fund may be used only for purposes of expenses of legal actions authorized or entered into by the governing body of the township or the county, on behalf of unorganized townships. If sixty percent of all votes cast on the question of authorizing the excess levy of taxes for the legal contingency fund are in favor of the excess levy, it shall be authorized and the county auditor shall extend such excess levy upon the tax list with other taxes. Upon expiration of any mill levy authorized by this section the governing body of the township or county may, by resolution, transfer any unobligated balance in the legal contingency fund to the general fund of the township or county.

SECTION 142. AMENDMENT. Section 57-15-55.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-55.1. City tax levy for transportation of public school students. The governing body of any city, upon approval by a majority vote of the electors of the city at any citywide election, may annually levy a tax on the ~~net~~ taxable assessed valuation of property within the city to provide funds for fees charged by a school district pursuant to section 15-34.2-06.1 for transportation for public school students who reside in the city but who attend school in another city in the same school district. A city levying a tax pursuant to this section may levy only so much as will be required to provide an amount representing the difference between the estimated state transportation payment to be received by the school district on behalf of students residing in the city but attending school outside of the city and the estimated actual cost to be incurred by the district in providing transportation for those students. ~~The mill levy provided for in this section is ever and above any mill levy limitations prescribed by law.~~

SECTION 143. AMENDMENT. Section 57-16-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-16-07. Certification of election results. If the percentage of the votes cast in favor of the question submitted is that specified in section 57-16-05 ~~57-15-14~~, such excess levy shall thereby be authorized. In such case, the election board shall certify the result of such election to the county auditor within ten days after such election. The certificate shall include a statement of the question as it appeared upon the ballot, together with the total number of votes cast upon the question, the number of votes cast in favor of it, and the number of votes cast against authorizing the excess levy. If the question proposed carried by the required majority, the county auditor shall extend such excess levy upon the tax lists of the school district.

SECTION 144. AMENDMENT. Section 57-26-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-26-07. Liability of auditor. If the amount paid to redeem is the amount certified by the auditor as the sum required, and it ~~shall appear~~ appears that such amount is less than the amount required by law, it ~~shall does~~ not invalidate such redemption, but the county auditor ~~shall be~~ is liable for the deficiency to the person entitled thereto, and personally ~~shall have~~ has a ~~right of action~~ claim for relief against the person redeeming to recover from him the amount of the deficiency.

SECTION 145. AMENDMENT. Section 57-30-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-30-02. Joinder of causes of action claims for relief. In any action brought by any county to determine adverse claims and to quiet title to real estate acquired through tax deed proceedings, the county may unite in the same complaint as many separate ~~causes of action~~ claims for relief as the state's attorney ~~shall deem~~ determines to be advisable, but each description of real estate and the name of any person claiming an adverse estate or interest therein shall be stated separately so that any answering defendant can take issue with the county by challenging the truth of the facts alleged in the particular paragraph applicable to the property of such answering defendant.

SECTION 146. AMENDMENT. Section 57-30-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-30-04. Actions - How tried - Judgments - When taken. Whenever any defendant answers the complaint in an action to quiet title and the issues have been joined, the ~~cause of action claim for relief~~ against the answering defendant may be tried separately to the court and a separate judgment may be entered thereon. Joint judgments by default may be taken, in the manner provided by law, against all defendants who may be in default, notwithstanding the fact that some of the defendants may have answered the complaint and that the issues presented thereby are pending trial.

SECTION 147. AMENDMENT. Section 57-38-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-35. Payment of tax. ~~Except as otherwise provided in section 57-38-36, every~~ Every taxpayer shall compute the amount of tax due under the return and shall attach thereto a check, draft, or money order, payable to the state tax commissioner, Bismarck, North Dakota, for the amount of the tax computed.

* SECTION 148. AMENDMENT. Section 57-38-61 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-61. Provisions of chapter applicable. The provisions of sections 57-38-34, 57-38-38, 57-38-39, 57-38-40, 57-38-44, 57-38-45, 57-38-46, 57-38-47, ~~57-38-52,~~ 57-38-53, 57-38-54, 57-38-55, 57-38-56, and 57-38-57 shall, insofar as consistent therewith, govern the administration of sections 57-38-58, 57-38-59, and 57-38-60. The term "employer" as used in sections 57-38-58, 57-38-59, and 57-38-60 shall also mean means "taxpayer" as used in this chapter. In addition, the authority of the tax commissioner to ~~prescribe adopt~~ rules and regulations shall include includes the authority to make such agreements with the United States government or any of its agencies as are necessary to provide for the deducting and withholding of tax from the wages of federal employees in ~~the~~ this state of North Dakota.

SECTION 149. AMENDMENT. Section 57-39.2-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39.2-23. Information deemed confidential. It shall be is unlawful for the commissioner, or any person having an administrative duty under this chapter, to divulge, or to make known in any manner whatever, the business affairs, operations, or information obtained by an investigation of records and equipment of any person or corporation visited or examined in the discharge of official duty, or the amount or sources of income, profits, losses, expenditures, or any particulars thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract of particulars thereof to be seen or examined by any person except as provided by law. The commissioner may authorize examination of such returns by other state officers, and at his discretion furnish to the tax officials of another state, the multistate tax commission, ~~the District of Columbia,~~ and the United States ~~and its territories,~~ any information contained in the tax returns and reports and related schedules and documents filed pursuant to this chapter, and in the report of an audit or investigation made with respect thereto, provided only that said information be furnished solely for tax purposes; and the multistate tax commission may make said information available to the tax officials of any other state, ~~the District of Columbia,~~ and the United States ~~and its territories~~ for tax purposes.

The commissioner is hereby authorized to furnish to the workmen's compensation bureau or to the ~~unemployment compensation~~ job insurance division of job service North Dakota upon request of either a list or lists of holders of permits issued pursuant to the provisions of this chapter or chapter 57-40.2, together with the addresses and tax department file identification numbers of such permit holders; provided, that any such list shall be used by the bureau to which it is furnished only for the purpose of administering the duties of such bureau. The commissioner, or any

* NOTE: Section 57-38-61 was also amended by section 2 of House Bill No. 1500, chapter 636.

person having an administrative duty under this chapter, is hereby authorized to announce that a permit has been revoked.

SECTION 150. AMENDMENT. Section 58-04-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-04-09. Challenge to voter - Duty of judges. If any person offering to vote at any election or upon any question arising at a township meeting is challenged as unqualified, the judges shall proceed in the manner in which judges at a general election are required to proceed, adapting the ~~oath affidavit~~ affidavit described in ~~title 16 section 16.1-05-06~~ to the circumstances of the township meeting.

SECTION 151. AMENDMENT. Section 58-14-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-14-01. Action by or against township - Procedure - Effect and judgment. Whenever any controversy or ~~cause of action claim for relief~~ exists between townships or between a township and a person, a civil action may be commenced and prosecuted for the purpose of trying and determining the controversy. The action shall be conducted as any other action or proceeding of a similar kind is conducted.

SECTION 152. AMENDMENT. Section 60-04-03.1 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

60-04-03.1. Trust fund established. Upon the insolvency of any warehouseman, a trust fund shall be established for the benefit of receipt holders of the insolvent warehouseman and to pay the costs incurred by the commission in the administration of this chapter. The trust fund ~~shall~~ must consist of the following:

1. The grain in the warehouse of the insolvent warehouseman or the proceeds as obtained through the sale of such grain.
2. The proceeds of insurance policies upon grain destroyed in the elevator.
3. The ~~cause of action claims for relief~~, and proceeds therefrom, for damages upon any bond given by the warehouseman to ensure faithful performance of the duties of a warehouseman.
4. The ~~cause of action claim for relief~~, and proceeds therefrom, for the conversion of any grain stored in the warehouse.

SECTION 153. AMENDMENT. Section 60-04-05 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

60-04-05. Remedy of receipt holders. No receipt holder shall have a separate ~~cause of action~~ claim for relief upon the warehouseman's bond, nor for insurance, nor against any person converting grain, nor against any other receipt holder, except through the trustee, unless, upon demand of five or more receipt holders, the commission ~~shall fail~~ fails or refuse refuses to apply for its own appointment from the district court or unless the district court ~~shall deny~~ denies the application for appointment. Nothing contained in this ~~This~~ chapter shall be construed to do not prohibit or prevent any receipt holder, either individually or in conjunction with other receipt holders, from pursuing concurrently such other remedy against the person or property of such warehouseman, for the whole, or any deficiency occurring in the redemption, of the receipts.

SECTION 154. AMENDMENT. Section 61-02-61 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-02-61. Resolution or indenture may contain provisions protecting bondholders - Expenses incurred in carrying out indenture. Either the resolution providing for the issuance of bonds or the trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper, not in violation of law, including covenants setting forth the duties of the state and the commission in relation to the acquisition, construction, improvement, maintenance, operation, repair, and insurance of the works, and the custody, safeguarding, and application of all moneys, and may provide that the works shall be acquired, constructed, or partly acquired and partly constructed and paid for under the supervision and approval of consulting engineers employed or designated by the commission. Such resolution or indenture may set forth the rights and remedies of the bondholders and trustee, restricting the individual ~~rights of action~~ claims for relief of bondholders as is customary in trust indentures, deeds of trust, and mortgages securing bonds. No enumeration of particular powers granted ~~shall~~ may be construed to impair any general grant of power contained in this chapter. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation, and repair of the works affected by such indenture.

SECTION 155. AMENDMENT. Section 61-02-68.11 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-02-68.11. Bond provisions applicable to interim financing notes. The provisions of sections 61-02-49, ~~61-02-50~~, ~~sections~~ 61-02-59 through, 61-02-60, 61-02-61, 61-02-62, and ~~section~~ 61-02-65,

relating to bonds ~~shall~~ also apply to notes issued pursuant to section 61-02-68.1.

SECTION 156. AMENDMENT. Section 61-02-72 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-02-72. Revenue bonds of commission are legal and valid investments of financial institutions - Exemption from taxation. Notwithstanding any restrictions contained in any other law, the state and all public officers, boards, and agencies, and political subdivisions and agencies thereof, all national banking associations, state banks, trust companies, savings banks and institutions, savings and loan associations, investment companies, and other persons carrying on a banking business, ~~all insurance associations and other persons carrying on an insurance business,~~ and all executors, administrators, guardians, trustees, and other fiduciaries, may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds issued by the commission pursuant to this chapter, and ~~such the bonds shall be~~ are authorized security for any and all public deposits, and ~~such.~~ The bonds, and the interest thereon, shall be are exempt from all state, county, and municipal taxes.

SECTION 157. AMENDMENT. Section 61-24.4-09 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-24.4-09. Appropriation. All moneys in the oil extraction tax development fund which are allocated as provided in subsection 2 1 of section 57-51.1-07 are hereby appropriated to the sinking fund for the payment of interest and principal of all bonds issued and sold under this chapter. The state water commission may use all or part of the moneys allocated as provided in subsection 2 1 of section 57-51.1-07 to match any federal funds available for such purposes.

SECTION 158. AMENDMENT. Section 65-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-01-01. Purposes of compensation law - Police power. The state of North Dakota, exercising its police and sovereign powers, declares that the prosperity of the state depends in a large measure upon the well-being of its wage workers, and, hence, for workmen injured in hazardous employments, and for their families and dependents, sure and certain relief is hereby provided regardless of questions of fault and to the exclusion of every other remedy, proceeding, or compensation, except as otherwise provided in this title, and to that end, all civil actions and civil causes of action claims for relief for such personal injuries and all jurisdiction of the courts of the state over such causes are abolished except as is otherwise provided in this title.

SECTION 159. AMENDMENT. Subsection 9 of section 65-01-02 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

9. "Employee" ~~shall mean~~ means every person engaged in a hazardous employment under any appointment, contract of hire, or apprenticeship, express or implied, oral or written, and:
- a. Such term ~~shall include~~ includes:
- (1) All elective and appointed officials of this state and its political subdivisions, including municipal corporations and including the members of the legislative assembly, all elective officials of the several counties of this state, and all elective peace officers of any city.
 - (2) Aliens.
 - (3) Poor relief workers except such as are engaged in repaying to counties relief moneys which the counties have been compelled by statute to expend for poor relief.
 - (4) Minors, whether lawfully or unlawfully employed; a minor ~~shall be~~ is deemed sui juris for the purposes of this title, and no other person ~~shall may~~ have any cause of action claim for relief or right to compensation for any injury to such minor workman, but in the event of the award of a lump sum of compensation to such minor employee, such sum shall be paid only to the legally appointed guardian of such minor.
- b. Such term ~~shall does~~ does not include:
- (1) Any person whose employment is both casual and not in the course of the trade, business, profession, or occupation of his employer.
 - (2) Any person who is engaged in an illegal enterprise or occupation.
 - (3) The spouse or child of the employer dwelling in the household of the employer.
- c. Persons employed by subcontractor, or by an independent contractor operating under an agreement with the general contractor, for the purpose of this chapter ~~shall be~~ are deemed to be employees of the general contractor who ~~shall be~~ is liable and responsible for the payments of premium for the coverage of these employees until the subcontractor or

independent contractor has secured the necessary coverage and paid the premium therefor. This subdivision ~~shall~~ may not be construed as imposing any liability upon a general contractor other than liability to the bureau for the payment of premiums which are not paid by a subcontractor or independent contractor.

SECTION 160. AMENDMENT. Section 65-01-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-01-08. Contributing employer relieved from liability for injury to employee. Where a local or out-of-state employer has secured the payment of compensation to his employees by contributing premiums to the fund, the employee, and the parents of a minor employee, or the representatives or beneficiaries of either, ~~shall~~ have no ~~right of action claim for relief~~ against such contributing employer or against any agent, servant, or other employee of such employer for damages for personal injuries, but shall look solely to the fund for compensation.

SECTION 161. AMENDMENT. Section 65-05-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-05-06. Payment of compensation in lieu of ~~right of action claim for relief against employer~~. The payment of compensation or other benefits by the bureau to an injured employee, or to his dependents in case death has ensued, ~~shall be are~~ in lieu of any and all ~~rights of action claims for relief~~ whatsoever against the employer of the injured or deceased employee.

SECTION 162. REPEAL. Sections 14-02-11, 15-08-01.1, 50-02-02, 54-27.1-10, and subsection 13 of section 57-15-10 of the North Dakota Century Code, and sections 25-10-04 and 54-46-03.1 of the 1983 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 27, 1985

CHAPTER 83

SENATE BILL NO. 2087
(Legislative Council)
(Interim Judiciary "B" Committee)

IRRECONCILABLE STATUTES INTERPRETATION

AN ACT to amend and reenact section 1-02-09 of the North Dakota Century Code, relating to reconciliation of statutes passed during the same session.

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

SECTION 1. AMENDMENT. Section 1-02-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1-02-09. Irreconcilable statutes or constitutional amendments passed during the same session.

1. Whenever the provisions of two or more statutes passed during the same session of the legislative assembly are irreconcilable, the statute latest in date of final passage by the legislative assembly, irrespective of the date on which it was approved or allowed to become law by the governor or of its effective date, shall prevail prevails from the time it becomes effective. However, whenever a provision of one or more statutes repeals a law and a provision of one or more statutes passed later during the same session of the legislative assembly amends that law, the provision amending the law prevails from the time it becomes effective only if:
 - a. The legislative council determines the intent of the legislative assembly was to retain the amended law as an independent law; or
 - b. The provision amending the law has an earlier effective date than the effective date of the provision repealing the law, in which case the amendment prevails from its effective date until the effective date of the provision repealing the law.
2. Whenever two or more concurrent resolutions, adopted during the same session of the legislative assembly,

propose to create or amend, or amend and repeal, the same section of the Constitution of North Dakota, the secretary of state, in consultation with the attorney general, shall determine if the proposals are irreconcilable, and if they are irreconcilable, the resolution last adopted by the legislative assembly, as determined by the legislative council or its designee, shall be placed on the ballot for the appropriate election for approval or disapproval by the electorate.

Approved March 22, 1985

CHAPTER 84

SENATE BILL NO. 2088
(Legislative Council)
(Interim Judiciary "B" Committee)

HEADNOTE SIGNIFICANCE

AN ACT to amend and reenact section 1-02-12 of the North Dakota Century Code, relating to headnotes.

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

SECTION 1. AMENDMENT. Section 1-02-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1-02-12. Headnote, cross-reference note, and source note. No headnote, source note, or cross-reference note, whether designating an entire title, chapter, section, subsection, or subdivision, ~~shall constitute~~ constitutes any part of a statute. A headnote may not be used to determine legislative intent or the legislative history for any statute.

Approved March 22, 1985