

# STATE GOVERNMENT

## CHAPTER 555

HOUSE BILL NO. 1355  
(Rydell)

### CENTENNIAL USE OF GREAT SEAL

AN ACT to allow the use of the great seal of the state for items commemorating the state centennial; and to provide an expiration date.

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

SECTION 1. Exemption for use of great seal for centennial commemorative items. Any person who designs any item to commemorate the state centennial using the great seal of the state, or offers for sale, sells, or uses in a public manner the item so designed is exempt from the application of section 54-02-01. To receive the exemption provided in this Act, the person must first receive approval of the design of the item from the North Dakota centennial commission established by chapter 583 of the 1983 Session Laws and from the secretary of state.

SECTION 2. EXPIRATION DATE. This Act is effective through June 30, 1991, and after that date is ineffective.

Approved March 14, 1985

## CHAPTER 556

HOUSE BILL NO. 1551  
(Strinden)

## CENTENNIAL COMMISSION MEMBERSHIP

AN ACT to amend and reenact section 2 of chapter 583 of the 1983 Session Laws of North Dakota, relating to the membership of the North Dakota centennial commission.

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

SECTION 1. AMENDMENT. Section 2 of chapter 583 of the 1983 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

SECTION 2. Establishment of a North Dakota commission. The ~~governer shall appoint~~ a North Dakota centennial commission ~~consisting of eleven~~ consists of fifteen members, eleven of whom are to be appointed by the governor, two of whom are to be senators appointed by the president of the senate, and two of whom are to be representatives appointed by the speaker of the house of representatives.

Approved March 27, 1985

## CHAPTER 557

SENATE BILL NO. 2190  
(Committee on State and Federal Government)  
(At the request of the Industrial Commission)

## STATE-OWNED LAND SALE

AN ACT to amend and reenact section 54-01-05.2 of the North Dakota Century Code, relating to the sale of state owned land by the industrial commission, acting as the state housing finance agency; and to declare an emergency.

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

SECTION 1. AMENDMENT. Section 54-01-05.2 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-01-05.2. Sale of state-owned land - Notice. Except as provided by section 54-01-05.5, whenever any department or agency of the state other than the board of university and school lands, the housing finance agency, and the Bank of North Dakota is authorized to sell such real property, the property shall be sold for cash by the county auditor or other person designated by the department or agency concerned at public auction at the front door of the courthouse in the county in which the property lies. A notice of sale shall have been published in the official newspaper of the county in which the property lies for three successive weeks, with the last publication not less than ten days before the day of sale. The notice shall be given in the name of the administrative head of the department or agency concerned, and must state the place, day, and hour of the sale, the description of the real property to be sold, and that the state reserves the right to reject any and all bids.

SECTION 2. EMERGENCY. This Act is hereby declared to be an emergency measure and is in effect from and after its passage and approval.

Approved March 22, 1985

## CHAPTER 558

HOUSE BILL NO. 1243  
(Committee on State and Federal Government)  
(At the request of the Legislative Compensation Commission)

## LEGISLATIVE COMPENSATION AND EXPENSES

AN ACT to amend and reenact sections 54-03-10, 54-03-20, and 54-35-10 of the North Dakota Century Code, relating to compensation and expense reimbursement for members of the legislative assembly; to repeal section 54-03-20.1 of the North Dakota Century Code and chapter 551 of the 1983 Session Laws of North Dakota, relating to compensation and expense reimbursement for members of the legislative assembly; to provide an effective date; and to declare an emergency.

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

SECTION 1. AMENDMENT. Section 54-03-10 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-03-10. Compensation of speaker, majority and minority leaders, committee chairmen, and employees. The speaker of the house, the house majority leader, the senate majority leader, the house minority leader, and the senate minority leader shall each receive as compensation, in addition to any other compensation or expense reimbursement provided by law, the sum of five ten dollars per day for each calendar day during any regular, special, or organizational session. Chairmen of the substantive standing committees shall receive additional compensation of three five dollars for each calendar day during any regular, special, or organizational session. The additional compensation provided by this section shall be paid in the manner provided in section 54-03-20. The legislative assembly, by concurrent resolution, shall fix the compensation of the other officers and employees elected or appointed. The provisions of this section shall be retroactive to January 1, ~~1971~~ 1985.

SECTION 2. AMENDMENT. Section 54-03-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-03-20. Allowance for living and other expenses Compensation and expense reimbursement of members of the legislative assembly. Each

member of the legislative assembly of the state of North Dakota shall be is entitled to and shall receive as compensation for services the sum of ~~eighty-five~~ ninety dollars a for each calendar day, as and is entitled to receive reimbursement for his living expenses, including meals, lodging, ~~uncompensated travel~~, and other necessary expenses, to a maximum of six hundred dollars per calendar month at the rates and in the manner provided in section 44-08-04 for each calendar ~~or natural~~ day during the period of any organizational, special, or regular session. Members of the legislative assembly who receive reimbursement for lodging are also entitled to reimbursement for travel for not to exceed one round trip per calendar week, or portion of a week, the legislative assembly is in session, between their residences and the place of meeting of the legislative assembly, at the rate provided for state employees. Members of the legislative assembly who do not receive reimbursement for lodging and who do not live in a legislative district completely or partially within the city of Bismarck are entitled to reimbursement at the rate provided for state employees for necessary travel for not to exceed one round trip per day between their residences and the place of meeting of the legislative assembly when it is in session, provided that this reimbursement may not exceed six hundred dollars per month. The expense allowance amount to which each legislator is entitled shall be paid immediately following the organizational session in December and at the end of following each month during a regular or special session.

A day, or portion of a day, spent in traveling to or returning from an organizational, special, or regular session shall be included as a calendar ~~or natural~~ day during a legislative session for the purpose of calculation of the expense allowance provided by purposes of this section.

In addition, each ~~such~~ member shall receive during the term for which he the member was elected, ~~for uncompensated expenses incurred in as compensation~~ for the execution of his public duties during the biennium, the sum of one hundred eighty dollars a month, which sum shall be is payable every six months. ~~Provided, however, should if a member die or resign dies or resigns~~ from office during his the member's term, he the member shall be paid only the allowances provided for in this section for the period for which he the member was actually a member.

Attendance at any organizational, special, or regular session of the legislative assembly by any member thereof shall be is a conclusive presumption of the expenditure of the expense allowances entitlement as set out in this section and these compensation and expense allowances shall be excluded from gross income for income tax purposes to the extent permitted for federal income tax purposes under section 127 of the Economic Recovery Tax Act of 1981 [Pub. L. 97-34; 95 Stat. 202; 26 U.S.C. 162(i)]. The provisions of this section shall be retroactive to January 1, ~~1981~~ 1985.

SECTION 3. AMENDMENT. Section 54-35-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-35-10. Compensation of members and leadership.**

1. The members of the council and the members of any committee of the council shall be compensated for the time spent in attendance at sessions of the council and of its committees at the rate of sixty-two dollars and fifty cents per day and shall also be paid for expenses incurred in attending said meetings and in the performance of their official duties in the amounts provided by law for other state officers.
2. In addition to the compensation provided in subsection 1, the chairman of the council shall receive an additional five dollars for each day spent in attendance at sessions of the council and of its committees, and the chairman of each of the council's committees shall receive ~~three~~ five dollars for each day spent in attendance at sessions of the council or of the committee which ~~he~~ the person chairs.

**SECTION 4. REPEAL.** Section 54-03-20.1 of the North Dakota Century Code and chapter 551 of the 1983 Session Laws of North Dakota are hereby repealed.

**SECTION 5. EFFECTIVE DATE.** This Act becomes effective on January 1, 1985.

**SECTION 6. EMERGENCY.** This Act is hereby declared to be an emergency measure and is in effect from and after its passage and approval.

Approved April 15, 1985

## CHAPTER 559

SENATE BILL NO. 2311  
(Moore, Thane, Peterson, David, Todd)

### REPORT OF CONTRIBUTIONS FOR STATE EMPLOYEE BENEFITS

AN ACT to provide that information be provided to state employees concerning state contributions to employee health and retirement benefit programs.

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

SECTION 1. Information to employees on state employee health and retirement and social security benefit program contributions and premiums paid by the state. A report providing a summary of payments made by the state for premiums and contributions for state employee insurance, retirement, and federal social security benefit programs for each state employee must be provided to each employee every calendar year. The report shall be in a form adopted by those state agencies and institutions responsible for preparing state employee payrolls. The information provided must include any portion of required employee retirement program contributions paid by the state on behalf of the employee and must include the accumulated state payments for these benefit programs for the current calendar year.

Approved March 28, 1985

## CHAPTER 560

SENATE BILL NO. 2475  
(Senators Heigaard, Nething)  
(Representatives Mertens, Strinden)

## STATE OFFICIALS' SALARIES

AN ACT to amend and reenact sections 4-01-21, 15-21-02, 26.1-01-09, 34-05-01.2, 49-01-05, 54-08-03, 54-09-05, 54-10-10, 54-11-13, 54-12-11, and 57-01-04 of the North Dakota Century Code, relating to the salaries of the commissioner of agriculture, superintendent of public instruction, commissioner of insurance, commissioner of labor, public service commissioners, lieutenant governor, secretary of state, state auditor, state treasurer, attorney general, and tax commissioner.

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

SECTION 1. AMENDMENT. Section 4-01-21 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-01-21. Salary of commissioner of agriculture. The annual salary of the commissioner of agriculture is ~~forty-three~~ forty-six thousand ~~three hundred eighty~~ dollars.

SECTION 2. AMENDMENT. Section 15-21-02 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-21-02. Salary and traveling expenses. The annual salary of the superintendent of public instruction is ~~forty-four~~ forty-seven thousand ~~twenty-eight~~ dollars. He shall be allowed in addition thereto his expenses incurred in the discharge of his official duties, such expenses to be paid monthly on a warrant prepared by the office of management and budget and signed by the state auditor, upon the filing of an itemized and verified statement of expenses.

SECTION 3. AMENDMENT. Section 26.1-01-09 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

26.1-01-09. Salary of commissioner. The annual salary of the commissioner is ~~forty-three~~ forty-six thousand ~~three hundred eighty~~ dollars.

SECTION 4. AMENDMENT. Section 34-05-01.2 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-05-01.2. Department of labor to be administered by commissioner of labor. The department of labor shall be administered by a commissioner of labor who shall be elected for a four-year term on a no-party ballot in the year 1966 and every four years thereafter in the same manner as provided for no-party candidates pursuant to title 16.1. Following his election, the term of the commissioner of labor shall commence on the same day as the terms for other elected state officials. The commissioner of labor shall possess the same qualifications for office as the commissioner of agriculture. The annual salary of the commissioner of labor is ~~forty-three~~ forty-six thousand ~~three hundred eighty~~ dollars.

SECTION 5. AMENDMENT. Section 49-01-05 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-01-05. Salary of commissioners. The annual salary of a commissioner is ~~forty-three~~ forty-six thousand ~~three hundred eighty~~ dollars. All fees received or charged by any such commissioner for any act or service rendered in any official capacity, shall be accounted for and paid over by him monthly to the state treasurer and shall be credited to the general fund of the state.

SECTION 6. AMENDMENT. Section 54-08-03 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-08-03. Salary of lieutenant governor. The annual salary of the lieutenant governor is ~~twelve~~ fifty thousand ~~five hundred~~ dollars.

SECTION 7. AMENDMENT. Section 54-09-05 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-09-05. Salary of secretary of state. The annual salary of the secretary of state is ~~forty-three~~ forty-six thousand ~~three hundred eighty~~ dollars.

SECTION 8. AMENDMENT. Section 54-10-10 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-10-10. Salary of state auditor. The annual salary of the state auditor is ~~forty-three~~ forty-six thousand ~~three hundred eighty~~ dollars.

SECTION 9. AMENDMENT. Section 54-11-13 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-11-13. Salary of state treasurer. The annual salary of the state treasurer is ~~forty-three~~ forty-six thousand ~~three hundred eighty~~ dollars.

SECTION 10. AMENDMENT. Section 54-12-11 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-12-11. Salary of attorney general. The annual salary of the attorney general is ~~forty-nine~~ fifty-two thousand ~~two hundred six~~ dollars.

SECTION 11. AMENDMENT. Section 57-01-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-01-04. Salary. The annual salary of the state tax commissioner is ~~forty-three~~ forty-six thousand ~~three hundred eighty~~ dollars.

Approved March 30, 1985

## CHAPTER 561

SENATE BILL NO. 2158  
(Committee on State and Federal Government)  
(At the request of the State Auditor)

## STATE AUDITOR AUDIT FREQUENCY

AN ACT to amend and reenact sections 54-10-01 and 54-10-14 of the North Dakota Century Code, to require audits performed by the state auditor to be performed at least once every two years.

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

\* SECTION 1. AMENDMENT. Section 54-10-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-10-01. Powers and duties of state auditor. The state auditor shall:

1. Be vested with the duties, powers, and responsibilities involved in performing the postaudit of all financial transactions of the state government, detecting and reporting any defaults, and determining that expenditures have been made in accordance with law and appropriation acts.
2. Be vested with the duties, powers, and responsibilities involved in making a complete examination at least once every two years of the books, records, accounting methods, and internal controls of any and all state agencies, including the occupational and professional boards provided for in title 43 and the state bar board, state board of veterinary medical examiners, and all other professional boards created by law. The state auditor shall charge an amount equal to the fair value of the audit and other services rendered plus actual costs incurred by the state auditor to all agencies which receive and expend moneys from other than the general fund, unless for good cause the amounts charged shall be waived by the auditor for a one-year period of time with such waiver being subject to annual renewal after proper application has been filed with the auditor. The governing board of any occupational and professional boards and commissions shall provide for an audit at least

\* NOTE: Section 54-10-01 was also amended by section 1 of House Bill No. 1045, chapter 562.

once every two years by a certified public accountant or licensed public accountant who shall submit the audit report to the state auditor's office. When the report is in the form and style as prescribed by the state auditor, the state auditor shall not audit such board or commission.

3. Be responsible for the above functions and shall report thereon to the governor and the office of management and budget as prescribed by section 54-06-04 or more often as circumstances may require.
4. Perform such other duties as are or may be prescribed by law.

\* SECTION 2. AMENDMENT. Section 54-10-14 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-10-14. Political subdivisions - Audits - Fees - Alternative audits and reports. The state auditor, by his duly appointed deputy auditors or other authorized agents, shall audit, at least once every ~~four~~ two years, except as provided in this section or otherwise by law, the official financial records, accounts, and proceedings of the following governing bodies and officials of the following political subdivisions:

1. Municipalities.
2. Park districts.
3. School districts.
4. Firemen's relief associations.
5. Airport authorities.
6. Public libraries.
7. Water resource districts.
8. Garrison Diversion Conservancy District.
9. Rural fire protection districts.
10. Special education districts.
11. Vocational education centers.
12. Correction centers.
13. Recreation service districts.
14. Weed boards.

\* NOTE: Section 54-10-14 was also amended by section 94 of House Bill No. 1059, chapter 235.

Audits may be conducted at more frequent intervals if the state auditor, in his discretion, deems it advisable. The state auditor may in lieu of conducting an audit every ~~four~~ two years require annual reports from school districts with less than one hundred enrolled students, municipalities with less than three hundred population based on the latest federal census, and other political subdivisions subject to the provisions of this section, or otherwise provided by law, with less than fifty thousand dollars of annual receipts. The reports shall contain such financial information as the state auditor may request. The state auditor may also make such additional examination or audit as he deems necessary in addition to such report. When a report is required in lieu of an audit, the state auditor upon receiving a petition containing the signatures of not less than ten percent of the electors of the political subdivision voting for the office of governor at the preceding general election, shall conduct an audit of such political subdivision's books, records, and financial accounts.

The governing board of any political subdivision may provide for an audit annually by a certified public accountant or licensed public accountant, and such report shall be in such form and contain such information as the state auditor may require in addition to other information, and in such case the state auditor shall not be required to make the examination heretofore provided for in this section. The number of copies as requested by the state auditor of such audit reports shall be filed with the state auditor by the certified public accountant or licensed public accountant making such audit at the time that the report of audit is delivered to said political subdivisions, and the governing board of such subdivision shall not pay the fee for such audit until evidence of such filing is furnished. The state auditor may require the correction of any irregularities, objectionable accounting procedures, or illegal actions on the part of the governing boards and officers of such subdivisions disclosed by such audit reports, and failure to make such corrections shall result in audits being resumed by the state auditor until such irregularities, procedures, or illegal actions are corrected and fees for such audits, so resumed, shall be paid in accordance with this section. The state auditor shall charge an amount equal to the fair value of the audit and other services rendered plus actual costs incurred by the state auditor to the political subdivisions in making and otherwise preparing the reports of audits herein provided for. All fees for the audits herein provided shall be paid by the subdivision audited to the state treasurer and by him credited to the general fund of the state.

Approved March 22, 1985

## CHAPTER 562

HOUSE BILL NO. 1045  
(Legislative Council)  
(Interim Budget "B" Committee)

## STATE DEBT REPORT BY STATE AUDITOR

AN ACT to amend and reenact section 54-10-01 of the North Dakota Century Code, relating to the powers and duties of the state auditor and requiring a report on outstanding debt issues of the state.

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

\* SECTION 1. AMENDMENT. Section 54-10-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-10-01. Powers and duties of state auditor. The state auditor shall:

1. Be vested with the duties, powers, and responsibilities involved in performing the postaudit of all financial transactions of the state government, detecting and reporting any defaults, and determining that expenditures have been made in accordance with law and appropriation acts.
2. Be vested with the duties, powers, and responsibilities involved in making a complete examination of the books, records, accounting methods, and internal controls of any and all state agencies, including the occupational and professional boards provided for in title 43 and the state bar board, state board of veterinary medical examiners, and all other professional boards created by law. The state auditor shall charge an amount equal to the fair value of the audit and other services rendered plus actual costs incurred by the state auditor to all agencies which receive and expend moneys from other than the general fund, unless for good cause the amounts charged ~~shall be~~ are waived by the auditor for a one-year period of time with ~~such the~~ the waiver ~~being~~ subject to annual renewal after proper application has been filed with the auditor. The governing board of any occupational and professional ~~boards and commissions~~ board or commission shall provide

\* NOTE: Section 54-10-01 was also amended by section 1 of Senate Bill No. 2158, chapter 561.

for an audit at least once every two years by a certified public accountant or licensed public accountant who shall submit the audit report to the state auditor's office. When the report is in the form and style as prescribed by the state auditor, the state auditor shall not audit such board or commission.

3. Prepare annually a report identifying all outstanding bonds and other evidences of indebtedness of the state of North Dakota. The state auditor shall include in the report the principal and accrued interest amounts of each outstanding debt issue. Information that is available in audit reports prepared by private firms may be used when preparing the report.
4. Be responsible for the above functions and shall report thereon to the governor and the office of management and budget as prescribed by section 54-06-04 or more often as circumstances may require.
- 4- 5. Perform such other duties as are or may be prescribed by law.

Approved March 1, 1985

## CHAPTER 563

HOUSE BILL NO. 1114  
(Committee on State and Federal Government)  
(At the request of the Director of Institutions)

## CLAIMS AGAINST THE STATE FOR ACTS OF STATE INSTITUTION RESIDENTS

AN ACT to amend and reenact subsection 1 of section 54-14-03.2 of the North Dakota Century Code, relating to claims against the state for acts of residents of the state institutions.

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

SECTION 1. AMENDMENT. Subsection 1 of section 54-14-03.2 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Any individual injured by an act of a resident or an inmate of a state institution may submit a claim to the office of the budget. As used in this section, "claim" means a monetary demand upon the state for personal injury or property damage arising from an act of a resident or an inmate of a state institution, and "state institution" means the state hospital, Grafton state school, San Haven, state penitentiary, state farm, and North Dakota industrial school, school for the blind, and school for the deaf.

Approved March 1, 1985

## CHAPTER 564

SENATE BILL NO. 2192  
(Committee on State and Federal Government)  
(At the request of the Industrial Commission)

## HOUSING FINANCE AGENCY BOND RESTRICTIONS

AN ACT to amend and reenact section 54-17-07.4 of the North Dakota Century Code, relating to the restriction that requires housing finance agency bonds to be sold at not less than ninety-five percent of par; and to declare an emergency.

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

SECTION 1. AMENDMENT. Section 54-17-07.4 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-17-07.4. Housing revenue bonds. In order to fund its housing finance programs, the industrial commission is authorized to issue revenue bonds or evidences of debt and indebtedness of the state which shall be sold at not less than ninety-five percent of par plus any accrued interest. The principal of and interest on such bonds shall be payable only from revenues generated under the applicable housing finance programs. The bonds shall not constitute a debt of the state of North Dakota and shall contain a statement to that effect on their face. The bonds may be sold at public or private sale, shall mature not more than fifty years from their date or dates, and shall contain such terms and provisions as the commission shall determine. The commission may capitalize from bond proceeds all expenses incidental to the issuance of the bonds or to the applicable housing finance program, including, without limitation, any reserves for the payment of the bonds. All revenue bonds issued by the commission to fund a housing finance program shall be secured separately from revenue bonds issued to fund its other housing finance programs.

SECTION 2. EMERGENCY. This Act is hereby declared to be an emergency measure and is in effect from and after its passage and approval.

Approved March 22, 1985

## CHAPTER 565

HOUSE BILL NO. 1321  
(Representatives Martinson, Nalewaja, Kloubec)  
(Senators Kilander, Lodoen, Reiten)

## TRANSFER OF UNUSED CEILING ON HOUSING REVENUE BONDS

AN ACT to amend and reenact section 54-17-07.5 of the North Dakota Century Code, relating to the reversion to the industrial commission of any unused portion of the annual state ceiling for the issuance of single family housing revenue bonds allocated to home rule cities.

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

SECTION 1. AMENDMENT. Section 54-17-07.5 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-17-07.5. State reallocation under the Mortgage Subsidy Bond Tax Act of 1980. Pursuant to sections 103A(g), 103A(g)(4), and 103A(g)(6)A of the Internal Revenue Code of 1954, hereafter referred to as the "code", the limit for housing revenue bonds to be issued shall be allocated as follows:

1. To the industrial commission to fund its housing home mortgage and mobile home and manufactured housing finance programs, seventy-five percent of the "state ceiling", as defined in section 103A(g)(4) of the code.
2. To home rule cities now or hereafter authorized to issue bonds subject to section 103A(g) of the code, twenty-five percent of the "state ceiling".

The applicable limit for bonds of any home rule city shall be determined by multiplying twenty-five percent of the state ceiling by a fraction, the numerator of which is the population of the home rule city as shown in the 1980 most recently published federal decennial census and the denominator of which is the aggregate population of all home rule cities now or hereafter authorized to issue bonds as shown in the 1980 most recently published federal decennial census. The governing board of any home rule city referred to in this section may by appropriate resolution or legislative action transfer to any other such home rule city or cities or to the industrial commission its local portion of the

state ceiling for any calendar year, such transfer to be irrevocable upon enactment in accordance with law. If a home rule city elects to issue housing revenue bonds, it shall, prior to issuance, file with the industrial commission a notice of intention to issue housing revenue bonds setting forth the maximum principal amount of housing revenue bonds to be issued and the anticipated date of issuance. Any local portion of the state ceiling granted to the home rule cities for a calendar year remaining on the first Monday of December, for which no notice of intention to issue housing revenue bonds has been filed with the industrial commission, is deemed to have been transferred to the industrial commission.

Approved March 14, 1985

## CHAPTER 566

SENATE BILL NO. 2233  
(Committee on State and Federal Government)  
(At the request of the Industrial Commission)

## HOUSING FINANCE AGENCY LOAN ORIGINATION TERMS

AN ACT to amend and reenact section 54-17-07.7 of the North Dakota Century Code, relating to the granting to the North Dakota industrial commission, acting as the North Dakota housing finance agency, the authority not to require program restrictions necessary to the exemption from federal income taxes of the interest payable on its housing revenue bonds; and to declare an emergency.

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

SECTION 1. AMENDMENT. Section 54-17-07.7 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-17-07.7. Terms of loans. Notwithstanding any other provision of law, the industrial commission is authorized to require, as a condition of the origination of loans and mortgage loans made pursuant to any of its housing finance programs or purchase of loans and mortgage loans to be purchased by it, prepayment penalties, restrictions upon assumability, default provisions, rights to accelerate, rights to increase the interest rate, and any other terms the commission may determine to be necessary or desirable to assure the repayment of its housing revenue bonds and, unless such conditions of origination or other terms are not required by the commission, the exemption from federal income taxes of the interest payable on its housing revenue bonds under the Internal Revenue Code of 1954. All such terms shall be enforceable by the originator, the commission, or any successor holder of the loans or mortgage loans unless expressly waived in writing by or on behalf of the commission.

SECTION 2. EMERGENCY. This Act is hereby declared to be an emergency measure and is in effect from and after its passage and approval.

Approved March 22, 1985

## CHAPTER 567

SENATE BILL NO. 2496  
(David, Stromme)

### HOUSING FINANCE AGENCY CONFIDENTIALITY

AN ACT to create and enact section 54-17-07.8 of the North Dakota Century Code, relating to the confidentiality of state housing finance agency records.

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

SECTION 1. Section 54-17-07.8 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-17-07.8. Confidentiality of housing finance agency records. The following records of the housing finance agency are confidential and are not public records:

1. Personal or financial information of a participant in any of the housing finance agency's programs, obtained directly or indirectly, except for routine credit inquiries or as required by court order.
2. Internal or interagency memorandums or letters of a personal nature which are not available by law to a party, except insofar as they are available in litigation with the agency.
3. Personal financial statements which the industrial commission requires of any housing finance agency employee or member of the housing finance agency's advisory board.

Approved March 22, 1985

## CHAPTER 568

SENATE BILL NO. 2230  
(Committee on State and Federal Government)  
(At the request of the Industrial Commission)

### HOUSING FINANCE AGENCY INSTRUMENTS

AN ACT to create and enact a new section to chapter 54-17 of the North Dakota Century Code, authorizing the execution of instruments affecting interests in real property by personnel of the North Dakota housing finance agency; and to declare an emergency.

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

SECTION 1. A new section to chapter 54-17 of the North Dakota Century Code is hereby created and enacted to read as follows:

**Execution of instruments.** In the absence of any provision regulating the execution and acknowledgement of conveyances, transfers, assignments, releases, satisfactions, or other instruments affecting liens on, title to, or interest in real estate, the executive director or the director of financial programs may execute and acknowledge such instruments on behalf of the industrial commission acting as the North Dakota housing finance agency.

SECTION 2. **EMERGENCY.** This Act is hereby declared to be an emergency measure and is in effect from and after its passage and approval.

Approved March 22, 1985

## CHAPTER 569

SENATE BILL NO. 2208  
(Committee on State and Federal Government)  
(At the request of the Bank of North Dakota)

## STUDENT LOAN REVENUE BONDS

AN ACT to amend and reenact section 54-17-25 of the North Dakota Century Code, relating to the issuance by the industrial commission of student loan revenue bonds.

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

SECTION 1. AMENDMENT. Section 54-17-25 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-17-25. Bonds authorized - Establishment of secondary market program. Whenever the industrial commission decides that it is in the public interest to diminish the investment of state funds in United States government guaranteed or reinsured or North Dakota guaranteed student loans, that it will be difficult to divest the state of appreciable amounts of such loans by piecemeal offering to the investing and saving public, that business conditions are favorable to a state-sponsored program to consolidate state-held student loans, and to enlarge private participation in such loans, the commission may by plenary resolution duly adopted in accordance with the provisions hereof authorize preparation, sale, and issuance of revenue bonds of North Dakota in such amounts and at such times and in such form, which may include the issuance of bonds the interest income on which is subject to federal and North Dakota income taxes, as the commission shall determine to be for the public good. The bonds shall be a paramount charge upon a sufficient designated portion of the resources of the student loan trusts, subject only to necessary administrative expenses of the trusts duly appropriated out of the interest earning resources thereof. The bonds may bear such rate or rates of interest as the commission may provide. The bonds shall have all of the qualities and incidents of negotiable paper and shall not be subject to taxation by the state of North Dakota or by any county, municipality, or political subdivision therein. The bonds shall be payable solely out of the separate resources generated respectively from collection of payments on and earnings and proceeds of (1) United States government guaranteed or reinsured or (2) North Dakota guaranteed student loans, and shall

respectively so recite. They shall not be indebtedness of the state of North Dakota or of any agency, board, department, or officer or agent thereof. Without limiting the foregoing, the commission may request the organization of a nonprofit corporation meeting the requirements of section 103(e) of the Internal Revenue Code of 1954, as amended, and enter into one or more agreements with such corporation providing for the establishment of a secondary market program in the state of North Dakota for the acquisition by the corporation of such loans made pursuant to title IV, part B of the Higher Education Act of 1965, as amended, as the commission shall, in its discretion, deem advisable.

Approved March 22, 1985

## CHAPTER 570

SENATE BILL NO. 2341  
(Nething, Lodoen, Stromme)

## VIETNAM VETERANS BONUS BOND SINKING FUND TRANSFER

AN ACT to amend and reenact section 54-17.1-08 of the North Dakota Century Code, relating to transfer of funds from the Vietnam veterans' bonus bond sinking fund.

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

\* SECTION 1. AMENDMENT. Section 54-17.1-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-17.1-08. Transfer of balance. Upon the retirement of all bonds provided for in this chapter, together with the interest thereon, any the sum of six hundred sixteen thousand three hundred sixty-five dollars from the sinking fund shall be transferred by the treasurer to the veterans' postwar trust fund. Any balance remaining in the sinking fund shall be transferred by the treasurer to the general fund.

Approved April 15, 1985

\* NOTE: Section 54-17.1-08 was also amended by section 3 of House Bill No. 1515, chapter 394.

## CHAPTER 571

HOUSE BILL NO. 1662  
(Strinden)

(Approved by the Committee on Delayed Bills)

### NORTH DAKOTA BUILDING AUTHORITY POWERS AND FUNDING

AN ACT to establish the industrial commission as the North Dakota building authority and to set out its powers and duties; to provide authorization for the issuance of evidences of indebtedness and for the construction of various buildings and facilities for state agencies, departments, and institutions; to provide a continuing appropriation; and to declare an emergency.

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

SECTION 1. Definitions. As used in sections 1 through 20 of this Act, unless the context or subject matter requires otherwise:

1. "Commission" means the industrial commission acting as the North Dakota building authority created under this Act.
2. "Evidences of indebtedness" means bonds, notes, debentures, and other evidences of indebtedness issued by the commission on behalf of the state of North Dakota to evidence money owed or borrowed.
3. "Project" or "projects" means any building or buildings primarily for the use of the state, including related structures, parking facilities, equipment, improvements, real and personal property or any interest therein, including lands under water, space rights and air rights, and other appurtenances and facilities necessary or convenient to the use or operation of the building or buildings, acquired, owned, constructed, reconstructed, extended, rehabilitated, or improved by the commission.
4. "Project cost" means the total cost of acquisition and construction of a project or projects and all costs of issuance, financing, and interest during construction included in the principal amount of evidences of indebtedness issued.

5. "State" means any branch of North Dakota government or any office, department, board, commission, bureau, division, public authority or corporation, agency, or instrumentality of the state.

**SECTION 2. Commission - Evidence of indebtedness issuance.** The commission is a North Dakota instrumentality empowered, subject to legislative authorization, to issue evidences of indebtedness to make funds available for a project or projects as directed by the legislative assembly.

**SECTION 3. Powers.** Except as otherwise limited by sections 1 through 20 of this Act, the commission may:

1. Enter into agreements with respect to its projects, operation, properties, and facilities, subject to agreements with holders of evidences of indebtedness.
2. Sue and be sued.
3. Make and enter into all contracts and all agreements necessary or incidental to the performance of its duties and the exercise of its powers.
4. Acquire, own, hold, assign, exchange, lease, mortgage, or pledge or grant security interests in a project or projects in the exercise of its powers and the performance of its duties.
5. Acquire, construct, reconstruct, rehabilitate, improve, alter, or repair, or provide for the acquisition, construction, reconstruction, improvement, alteration, or repair of any project and let, award, and enter into construction contracts, purchase orders, and other contracts with respect thereto in the manner determined by the commission.
6. Sell, lease, assign, transfer, convey, exchange, mortgage, or otherwise dispose of or encumber any project or other property no longer necessary to carry out the public purposes of the commission and, in the case of the sale of any project or property, to accept a purchase money mortgage in connection therewith; and to lease, repurchase, or otherwise acquire and hold any project or property which the commission has sold, let, or otherwise conveyed, transferred, or disposed of.
7. Grant options to purchase any project or to renew any lease entered into by it in connection with any of its projects, on terms and conditions it deems advisable.
8. Acquire by purchase, lease, or otherwise, on terms and conditions and in a manner as it determines to be proper, or by the exercise of the power of eminent domain, except

with respect to lands owned by the state or any public lands, any land and other property or equipment, which it may determine is reasonably necessary for any project.

9. Sell, lease, rent, sublease, or otherwise dispose of, to any person, firm, or corporation, any surplus space in any project over and above that sold, leased, rented, subleased, or otherwise disposed of to the state and establish and revise the purchase price, rents, or charges for the surplus space.
10. Manage or operate any project or real or personal property or equipment related to a project whether owned or leased by the commission or any state agency, and enter into agreements with any state agency, any political subdivision, any local governmental agency, or with any person, firm, association, partnership, or corporation, either public or private, for the management of a project or related property.
11. Consent to any modification, amendment, or revision of any contract, lease, or agreement to which the commission is a party, subject to the provisions of any contract with holders of evidences of indebtedness.
12. Issue its evidences of indebtedness and to secure the same and provide for the rights of the holders thereof as provided in sections 1 through 20 of this Act.
13. Invest moneys of the commission not required for immediate use, including proceeds from the sale of any evidences of indebtedness in securities and other investments including evidences of indebtedness as the commission determines to be prudent, subject to any agreement with holders of evidences of indebtedness.
14. Procure insurance against any loss in connection with its property and other assets and operations in such amounts and from such insurers as it deems desirable.
15. Purchase evidences of indebtedness issued by the commission out of any funds or money not pledged to or necessary for some other purpose and hold, cancel, or resell such evidences of indebtedness, subject to any agreement with holders of evidences of indebtedness.

**SECTION 4. Purpose of commission.** The public purpose of the commission is to promote the general welfare of the citizens of this state by providing projects for use by the state in providing public services by altering, repairing, maintaining, or constructing buildings primarily for use by the state and making any improvements connected to those buildings or pertaining to those buildings and necessary to the use of those buildings in providing services to the public.

**SECTION 5. Transfer of state property to commission - Services by state agencies.** The state may transfer jurisdiction of or title to any property under its control to the commission. All state agencies may render any and all services to the commission as are within the area of their respective governmental functions and as may be required by the commission, including acting as agent for the commission in furtherance of performing its duties.

**SECTION 6. Lease of facilities and sites to state agencies authorized - Commencement of payments under lease.** The commission may lease any project to the state. The leases may be entered into contemporaneously with any financing to be done by the commission and payments under the terms of the lease shall begin at any time after execution of the lease.

**SECTION 7. Terms, conditions, and rental under leases - Automatic biennial extension provisions.** Leases may be entered into by the commission:

1. Upon terms, conditions, and lease rentals, subject to available appropriations, as in the judgment of the commission are in the public interest; and
2. For an original term of not to exceed two years, with an automatic extension of the term of the lease, unless specifically rejected by the legislative assembly, for a term of two years from the expiration of the original term of the lease and for two years from the expiration of each extended term of the lease, until the original term of the lease has been extended for a total number of years to be agreed upon by the parties at a lease rental which, if paid for the original term and for each of the full number of years for which the term of the lease may be extended, will amortize the total project cost of the project.

The lease rental must be paid at the times agreed upon by the parties to the lease.

**SECTION 8. State's option to purchase - Conveyance on exercise of option.** The lease must provide that the state may, at the expiration of the original or any extended term, purchase the project at a stated price, which must be the balance of the total project cost not amortized by the payment of rents previously made by the state. The lease must provide that if the option to purchase the project has been exercised or if the lease has been extended for the full number of years which it may be extended, and all rents and payments provided for in the lease have been made and all project costs have been paid, the commission shall convey its interest in the project to the lessee.

**SECTION 9. Insurance and credit enhancements added to rental payments.** The lease may provide that the state shall provide insurance or, as additional rent for the leased project, pay the cost of insuring the project against loss or damage in such sum

agreed to by the parties. The lease may also provide for payment of the cost of such credit enhancements as in the judgment of the commission may be required for sale of the evidences of indebtedness, including bond insurance or letters of credit.

**SECTION 10. Appropriations and funds from which rent payable and right to project upon nonpayment - Commission's power to use or sell facilities for other purposes on nonpayment of rent.** The lease must provide that rents are payable solely from appropriations to be made by the legislative assembly for the payment of the lease rent or money available to the lessee not requiring appropriation, money generated from charges made for use of the project, any revenues derived by the commission from the operation of the project, or any combination of such moneys. The commission upon nonpayment of lease rents is immediately entitled to the peaceable possession, access, and occupancy of the project and all appurtenances and easements appertaining thereto, and may maintain and operate the project or execute leases for the project or sell the project to political subdivisions of the state or private persons or entities for any purpose.

**SECTION 11. Costs and reserves to be covered by rent and charges.** Lease rentals for a project must be sufficient at all times to pay the maintenance and operation costs for the project, unless maintenance and operation costs are otherwise provided for under a lease, the principal of and interest on any evidence of indebtedness, and a proportion of the administrative expenses of the commission as provided for by each lease, and the reserves as may be provided in the resolutions authorizing the issuance of evidences of indebtedness.

**SECTION 12. Tax exemption of commission's property.** All property owned by the commission is exempt from taxation.

**SECTION 13. Resolutions for evidences of indebtedness authorized - Maximum amount outstanding - Legislative approval required.** The commission may at any time provide by resolution for the issuance of evidences of indebtedness for the purpose of paying all or any part of the cost of one or any combination of projects; provided, however, that no project may be leased by the commission to the state, nor any evidences of indebtedness be sold to raise the funds for payment, acquisition, or construction of a project until the legislative assembly by law authorizes the specific project or projects and declares the project or projects to be in the public interest.

**SECTION 14. Purposes for which evidences of indebtedness issue - Refunding and refinancing - Pledge of income.** To accomplish its purposes, the commission may borrow and issue and sell evidences of indebtedness in an amount or amounts as the commission may determine, but not in excess of legislative authorization, plus costs of issuance, financing, interest during construction, and any evidences of indebtedness funded reserve funds required by agreements with or for the benefit of holders of evidences of indebtedness for the purpose of acquiring, constructing, completing,

or remodeling, maintaining, or equipping any project or projects. The commission may refund and refinance the evidences of indebtedness from time to time as often as it is advantageous and in the public interest to do so; and may pledge any and all income of the commission, and any revenues derived by the commission or the state from a project or any combination thereof, to secure payment or redemption of the evidences of indebtedness.

**SECTION 15. Evidences of indebtedness authorized - Interest rates - Exemption from taxation - Term.** The commission, pursuant to legislative authorization, may, by resolution, authorize preparation, sale, and issuance of evidences of indebtedness of the commission in amounts and at such times, in fully registered form, with final maturity of not more than thirty years. The evidences of indebtedness may bear the fixed or variable rate or rates of interest and may be sold at the price or prices as the commission may provide at an average net interest cost not in excess of twelve percent per annum for evidences of indebtedness sold at private sale, except that there is no interest rate ceiling on issues sold at public sale or to the state. The evidences of indebtedness are not subject to taxation by the state or by any county, municipality, or political subdivision in the state. The evidences of indebtedness are not indebtedness of the state or of any officer or agent of the state within the meaning of any statutory or constitutional provision.

**SECTION 16. Revenues, appropriations, funds, and income from which evidences of indebtedness payable.** Evidences of indebtedness are payable solely from:

1. Revenues to be derived by the commission from the operation of a project or projects;
2. Income to be derived from rentals paid pursuant to leases to the state, or from leases to others as provided by this Act;
3. Funds appropriated by the legislative assembly; and
4. Any other revenue, income, or funds available to the commission.

**SECTION 17. Covenants and contracts with holders of evidences of indebtedness.** In any resolution of the commission relating to the issuance of any evidence of indebtedness, the commission may provide by covenants with the holders of the evidences of indebtedness, to:

1. Secure the evidences of indebtedness.
2. Covenant against pledging all or any part of its revenues, receipts, or proceeds, or against mortgaging or leasing all or any part of its real or personal property when owned or thereafter acquired or against permitting or suffering any lien. Any pledge of revenues, receipts, moneys, funds, levies, sales agreements, service

contracts, or other property or instruments made by the commission are valid and binding from the time the pledge is made. The revenues, receipts, moneys, funds, or other property pledged and thereafter received by the commission are immediately subject to the lien of the pledge without any physical delivery or further act, and the lien of any pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the commission irrespective of whether the parties have notice of the claim. Neither the resolution nor any other instrument by which a pledge under this section is created need be filed or recorded except in the records of the commission.

3. Covenant as to any evidences of indebtedness to be issued and the limitations on the evidence of indebtedness and their terms and conditions as to the custody, application, investment, and disposition of their proceeds, as to the sources and methods of the payment, and as to the rank or priority of the evidence of indebtedness.
4. Provide for the replacement of lost, stolen, destroyed, or mutilated evidences of indebtedness.
5. Provide for the rights and liabilities, power and duties arising upon the breach of any covenant, condition, or obligation; prescribe the events of default and the terms and conditions upon which any or all of the evidences of indebtedness of the commission become or may be declared due and payable before maturity; and provide the terms and conditions upon which the declaration and its consequences may be waived.
6. Vest in a trustee or trustees within or without the state such property, rights, powers, and duties in trust as the commission may determine.
7. Make covenants other than or in addition to the covenants authorized by this Act of like or different character, and to make the covenants to do or refrain from doing acts and things as may be necessary, or convenient and desirable, to better secure evidences of indebtedness or which, in the absolute discretion of the commission will tend to make its evidences of indebtedness more marketable, notwithstanding that the covenants, acts, or things may not be enumerated in this Act.

**SECTION 18. Validity of signature by officers.** Evidences of indebtedness must be executed by a member or members of the commission as designated by the commission, or by facsimile signature and the manual signature of a designated authenticating agent. Any evidences of indebtedness bearing the signature of members in office at the date of signing are valid and binding for all purposes notwithstanding that before delivery any person whose

signature appears on the evidences of indebtedness has ceased to be a member.

**SECTION 19. Restrictions on obligation stated on face of evidences of indebtedness.** Evidences of indebtedness must state upon their face that they are payable solely from revenues derived by the commission as provided in this Act, including revenues from the operation of projects acquired, constructed, completed, remodeled, or equipped in whole or in part with the proceeds of the sale of such evidences of indebtedness, including income to be derived from rental leases as provided by sections 1 through 20 of this Act. Evidences of indebtedness must state upon their face that they do not constitute an obligation of the state within the meaning of any statutory or constitutional provision.

**SECTION 20. Disposition of income - Building authority fund.** The proceeds of and any revenue derived from the sale of evidences of indebtedness, charges, fees, or rentals, and all other revenue derived from any project undertaken pursuant to sections 1 through 20 of this Act must be held in trust for the purposes of sections 1 through 20 of this Act, in a special fund known as the building authority fund. Disbursements shall be made from the fund upon the resolution of the commission. The building authority fund established by this Act may contain such accounts as authorized by the commission.

**SECTION 21. PROJECT AUTHORIZATION.** The industrial commission may construct and acquire and issue evidences of indebtedness under sections 1 through 20 of this Act as necessary to defray project costs of the following projects, hereby declared to be in the public interest, during the biennium beginning July 1, 1985, and ending June 30, 1987:

NAME OF AGENCY, DEPARTMENT, OR INSTITUTION	TYPE OF FACILITY	STATE FUNDS
State penitentiary	Phase II construction and renovation project	\$ 7,500,000
Grafton state school	Renovation of Sunset Hall, Collette Auditorium, and tunnel replacement	3,900,000
State hospital	Central store building, and air-conditioning in the adolescent center, receiving and treatment center, medical building and central dining center	<u>3,400,000</u>
Total major capital construction		\$ 14,800,000

The industrial commission shall issue evidences of indebtedness authorized under this section with the condition that lease rental payments need not begin until July 1, 1987, and with the provision

that the evidences of indebtedness are callable five years after issuance. The authority of the industrial commission to issue evidences of indebtedness under sections 1 through 20 of this Act ends on June 30, 1987, but the industrial commission shall have continued authority to exercise all other powers granted to it under this Act and to comply with any covenants entered into before that date.

**SECTION 22. CONTINUING APPROPRIATION.** The moneys received by the commission and the state agencies and institutions from the sale of evidences of indebtedness, lease rental payments, and from revenue generated by projects authorized under section 21 of this Act are hereby appropriated as a continuing appropriation for the acquisition of these authorized projects and the payment of lease rentals for these projects.

**SECTION 23. EMERGENCY.** This Act is hereby declared to be an emergency measure and is in effect from and after its passage and approval.

Approved April 16, 1985

## CHAPTER 572

SENATE BILL NO. 2189  
(Committee on State and Federal Government)  
(At the request of the Commissioner of Agriculture)

### EXPORT TRADING COMPANIES

An Act to create and enact a new subsection to section 54-18-04 of the North Dakota Century Code, relating to the powers and duties of the industrial commission in operating the North Dakota mill and elevator association.

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

SECTION 1. A new subsection to section 54-18-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Participate with export trading companies formed pursuant to Public Law No. 97-290 [96 Stat. 1233; 15 U.S.C. 4001 et seq., 15 U.S.C. 61, 15 U.S.C. 45, 12 U.S.C. 372, 12 U.S.C. 635 a-4, 12 U.S.C. 1843] to accomplish the acquisition and disposal of raw and finished farm products by means of commercial enterprises engaged in distribution, marketing, exporting, importing and manufacturing of raw and finished farm products. For purposes of this section "participate" means anything that any private individual or corporation may lawfully do in conducting a similar business with an export trading company, not otherwise prohibited by law.

Approved March 22, 1985

## CHAPTER 573

HOUSE BILL NO. 1654

(Mertens)

(Approved by the Committee on Delayed Bills)

## UNIFORM MECHANICAL CODE

AN ACT to amend and reenact subsection 1 of section 54-21.3-03 of the North Dakota Century Code, relating to the incorporation of the Uniform Mechanical Code as part of the state building code; and to declare an emergency.

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

SECTION 1. AMENDMENT. Subsection 1 of section 54-21.3-03 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The state building code shall consist of the 1982 Uniform Building Code with any existing appendices and supplements including the Uniform Mechanical Code with any existing appendices and supplements as referenced by the Uniform Building Code. This code shall be implemented by and may be amended by rules adopted by the director of the office of management and budget pursuant to chapter 28-32.

SECTION 2. EMERGENCY. This Act is hereby declared to be an emergency measure and is in effect from and after its passage and approval.

Approved March 31, 1985

## CHAPTER 574

HOUSE BILL NO. 1110  
(Committee on State and Federal Government)  
(At the request of the Board of Higher Education)

## FIXED ASSET MINIMUM REPORTING VALUE FOR STATE AGENCIES

AN ACT to amend and reenact section 54-27-21 of the North Dakota Century Code, relating to the requirements for fixed asset minimum reporting value for state departments, agencies, and institutions.

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

SECTION 1. AMENDMENT. Section 54-27-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-27-21. Fixed asset minimum reporting value. All state departments, agencies, and institutions shall include all fixed assets under their control in their financial statements, except those having a value of ~~one~~ three hundred dollars or less. The state auditor is authorized to provide for the written exemption of specific fixed assets having a value of more than ~~one~~ three hundred dollars when such exemption is justified upon generally accepted accounting principles.

Approved March 1, 1985

## CHAPTER 575

HOUSE BILL NO. 1046  
(Legislative Council)  
(Interim Budget "B" Committee)

### STATE BONDS AND DEBENTURES

AN ACT to repeal chapters 6-09.3, 54-31, and 54-32 of the North Dakota Century Code, and sections 1 and 2 of chapter 108 of the 1941 Session Laws of North Dakota, relating to irrigation development debentures, North Dakota mill and elevator bonds, and North Dakota mill and elevator refunding bonds.

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

SECTION 1. REPEAL. Chapters 6-09.3, 54-31, and 54-32 of the North Dakota Century Code, and sections 1 and 2 of chapter 108 of the 1941 Session Laws of North Dakota are hereby repealed.

Approved March 1, 1985

## CHAPTER 576

HOUSE BILL NO. 1651  
(Kloubec)

(Approved by the Committee on Delayed Bills)

## UNIFORM STATE LAWS REVIEW

AN ACT to amend and reenact subsection 4 of section 54-35-02 and section 54-55-04 of the North Dakota Century Code, relating to the powers and duties of the legislative council and the commission on uniform state laws.

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

SECTION 1. AMENDMENT. Subsection 4 of section 54-35-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. To study and promote uniformity of legislation in the United States upon subjects upon which uniformity is desirable and to confer with the commissioners or similar groups appointed for the same purpose by any other state in drafting uniform laws to be submitted for the approval and adoption by the several states and through such member or members or council staff persons as the council may appoint to meet annually with the conference of commissioners on uniform state laws for the promotion of uniformity of legislation in the United States and join with it in such measures as may be deemed most expedient to advance the objects of such conference. The council shall receive, review, and make recommendations on uniform and model laws recommended to it by the state commission on uniform state laws.

SECTION 2. AMENDMENT. Section 54-55-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-55-04. Duties of commissioners and commission. Each commissioner shall attend the annual meeting of the national conference of commissioners on uniform state laws and shall promote uniformity in state laws on those subjects where uniformity may be deemed desirable and practicable. The commission shall also promote as far as practicable the uniform judicial application and construction of all uniform state laws. ~~Prior to~~ During the interim between

legislative sessions, the commission shall submit its recommendations for enactment of uniform and model laws to the legislative council for its review and recommendation. Commissioners shall provide such assistance to the legislative council as the legislative council requests with respect to its review of uniform and model laws. During each biennial legislative session, and at any other time as the commission may deem proper, the commission shall report to the legislative assembly an account of its transactions and its advice and recommendations for legislation. The report must include the recommendations of the legislative council with respect to uniform and model laws recommended by the commission.

Approved March 27, 1985

## CHAPTER 577

HOUSE BILL NO. 1108  
(Committee on State and Federal Government)  
(At the request of the Office of Management and Budget)

## DATA PROCESSING EQUIPMENT

AN ACT to amend and reenact subsection 3 of section 54-44.2-02 of the North Dakota Century Code, relating to the purchase of data processing equipment; and to repeal section 54-44.2-03 of the North Dakota Century Code, relating to the transfer of electronic data processing equipment acquired by state agencies prior to July 1, 1969.

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

SECTION 1. AMENDMENT. Subsection 3 of section 54-44.2-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Have the authority to purchase or lease such additional equipment or replace, including by trade or resale, present equipment as may be necessary to carry out the provisions of this chapter. Each executive branch department, agency, or institution, except the institutions under the control of the board of higher education, the job service North Dakota, and the office of adjutant general, shall submit to the director of central data processing for his approval or disapproval a written request for data processing services which require new data processing applications. A request shall also be submitted for modifications to existing data processing applications which are expected to increase the cost of operating such data processing applications by more than fifteen percent. The director of central data processing shall have authority to approve or disapprove the lease, purchase, or other contractual acquisition of additional or new electronic data processing services or equipment by executive branch agencies, except the institutions under the control of the board of higher education, the job service North Dakota, and the office of adjutant general. ~~if an equipment purchase or rental is authorized, the equipment shall become the property of the office of central data processing.~~ The director of central data processing may authorize a user agency to house and operate electronic data processing equipment.

SECTION 2. REPEAL. Section 54-44.2-03 of the North Dakota Century Code is hereby repealed.

Approved March 1, 1985

## CHAPTER 578

SENATE BILL NO. 2442  
(Senators Lodoen, D. Meyer, W. Meyer)  
(Representatives Martinson, Moore)

### STATE ARCHITECT, ENGINEER, AND SURVEYING CONTRACTS

AN ACT to provide for the manner in which state agencies shall contract for architect, engineer, and land surveying services; to create and enact a new subdivision to subsection 6 of section 28-32-01 of the North Dakota Century Code, relating to a definition of rules adopted by certain agencies; and to declare an emergency.

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

**SECTION 1. Definition.** "Architect, engineer, and land surveying services" are those professional services associated with the practice of architecture, professional engineering, professional land surveying, landscape architecture, and interior design pertaining to construction, as defined by the laws of this state, as well as incidental services that members of these professions and those in their employ may logically or justifiably perform, including studies, investigations, surveys, evaluations, consultations, planning, programming, conceptual designs, plans and specifications, cost estimates, inspections, construction management, shop drawing reviews, sample recommendations, preparation of operating and maintenance manuals, and other related services, except for professional services related to prefabricated steel for bridge purposes.

**SECTION 2. Applicability - Policy.** Architect, engineer, and land surveying services shall be procured as provided in this chapter. It is the policy of this state that all North Dakota state agencies shall negotiate contracts for services on the basis of demonstrated competence and qualification for the particular type of services required.

**SECTION 3. Procurement procedures.**

1. Each using agency shall establish its own architect, engineer, and land surveying services selection committee hereinafter referred to as the agency selection committee, which shall be composed of those individuals whom the

agency head determines to be qualified to make an informed decision as to the most competent and qualified firm for the proposed project. The head of the using agency or his qualified, responsible designee shall sit as a member of the agency selection committee for the purpose of coordinating and accounting for the committee's work.

2. The agency selection committee shall be responsible for all of the following:
  - a. Developing a description of the proposed project.
  - b. Enumerating all required professional services for that project.
  - c. Preparing a formal invitation to firms for submission of information. The invitation shall include but not be limited to the project title, the general scope of work, a description of all professional services required for that project, and the submission deadline. The invitation or notice thereof shall be published. Upon written request, the agency shall also mail copies of the invitation to any interested party. The manner in which this shall be published, the content of the publication, and the frequency of the publication, shall be established by regulation of the agency selection committee.
3. The date for submission of information from interested persons or firms in response to an invitation shall be not less than twenty-one days after publication of the invitation. Interested architect, engineer, and land surveying persons or firms shall be required to respond to the invitation with the submission of the information required in general services administration forms SF 254 and SF 255, architect-engineer related services questionnaire for specific project, or such similar information as the agency selection committee may prescribe by rule.
4. Following receipt of information from all interested persons and firms, the agency selection committee shall hold interviews with at least three persons or firms who have responded to the committee's advertisement and who are deemed most qualified on the basis of information available prior to the interviews. If less than three persons or firms have responded to the advertisement, the committee shall readvertise or hold interviews with those who did respond. The agency selection committee's determination as to which will be interviewed shall be in writing and shall be based upon its review and evaluation of all submitted materials. The written report of the committee shall specifically list the names of all persons and firms that responded to the advertisement and

enumerate the reasons of the committee for selecting those to be interviewed. This written report shall be available to the public upon written request. The purpose of the interviews shall be to provide such further information as may be required by the agency selection committee to fully acquaint itself with the relative qualifications of the several interested persons or firms.

5. The agency selection committee shall evaluate each of the persons or firms interviewed on the basis of the following criteria:
  - a. Past performance.
  - b. The ability of professional personnel.
  - c. Willingness to meet time and budget requirements.
  - d. Location.
  - e. Recent, current, and projected workloads of the persons or firms.
  - f. Related experience on similar projects.
  - g. Recent and current work for the agency.

Based upon these evaluations, the agency selection committee shall select the three which, in its judgment, are most qualified, ranking the three in priority order. The agency selection committee's report ranking the interviewed persons or firms shall be in writing and shall include data substantiating its determinations. This data shall be available to the public upon written request.

6. The agency selection committee shall submit its written report ranking the interviewed persons or firms to the governing body of the using agency for its evaluation and approval. When it is determined that the ranking report is final by the agency, written notification of the selection and order of preference shall be immediately sent to all of those that responded to the agency selection committee's invitation to submit information.
7. The governing body of the using agency or its designee shall negotiate a contract for services with the most qualified person or firm, at a compensation which is fair and reasonable to the state, after notice of selection and ranking. Should the governing body of the using agency or its designee be unable to negotiate a satisfactory contract with this person or firm, negotiations shall be formally terminated. Negotiations shall commence in the same manner with the second and then the third most qualified until a satisfactory contract has been

negotiated. If no agreement is reached, three additional persons or firms in order of their competence and qualifications shall be selected after consultation with the agency selection committee, and negotiations shall be continued in the same manner until agreement is reached.

#### SECTION 4. Exception.

1. All state agencies securing architect, engineer, or land surveying services for projects for which the fees are estimated not to exceed ten thousand dollars may employ the architects, engineers, and land surveyors by direct negotiation and selection, taking into account all of the following:
  - a. The nature of the project.
  - b. The proximity of the architect, engineer, or land surveying services to the project.
  - c. The capability of the architect, engineer, or land surveyor to produce the required services within a reasonable time.
  - d. Past performance.
  - e. Ability to meet project budget requirements.

This procedure shall still follow state policy set forth above.

2. Fees paid pursuant to this section during the twelve-month period immediately preceding negotiation of the contract by any single state agency for professional services performed by any one architectural, engineering or land surveying person or firm shall not exceed twenty thousand dollars. All persons or firms seeking to render professional services pursuant to this section shall furnish the state agency with which the firm is negotiating a list of professional services, including the fees paid, performed for the state agency during the twelve months immediately preceding the contract being negotiated.

**SECTION 5. Splitting projects or services contracts prohibited.** No using agency shall separate service contracts or split or break projects for the purpose of circumventing the provisions of this chapter.

**SECTION 6.** A new subdivision to subsection 6 of section 28-32-01 of the 1983 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

A rule adopted by an agency selection committee under section 3 of this Act.

**SECTION 7. EMERGENCY.** This Act is hereby declared to be an emergency measure and is in effect from and after its passage and approval.

Approved March 31, 1985

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## CHAPTER 579

SENATE BILL NO. 2376  
(Stenehjem)

### ENEMY ATTACK GOVERNMENT

AN ACT to repeal chapters 54-47 and 54-48 of the North Dakota Century Code, relating to continuity of state and local government in the event of a disaster caused by enemy attack.

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

SECTION 1. REPEAL. Chapters 54-47 and 54-48 of the North Dakota Century Code are hereby repealed.

Approved March 22, 1985

## CHAPTER 580

HOUSE BILL NO. 1178  
(Committee on State and Federal Government)  
(At the request of the Public Employees Retirement System)

**PUBLIC EMPLOYEES RETIREMENT SYSTEM BOARD  
OF DIRECTORS**

AN ACT to amend and reenact subsection 3 of section 54-52-03 of the North Dakota Century Code, relating to the notice of elections and eligibility of board members of the public employees retirement system.

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

SECTION 1. AMENDMENT. Subsection 3 of section 54-52-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Three board members shall be elected from among the active participating members. The initial elected members shall be elected for terms which shall expire two years, three years, and four years after the date of establishment. Future Employees who have terminated their employment for whatever reason are not eligible to serve as elected members of the board. Board members shall be elected to a five-year term, pursuant to an election called for by the board. Notice of board elections shall be given to all active participating members. The time spent in performing duties as a board member shall not be charged against any employee's accumulated annual or any other type of leave.

Approved March 14, 1985

## CHAPTER 581

HOUSE BILL NO. 1132  
(Committee on Appropriations)  
(At the request of the Public Employees Retirement System)

**PAYMENT OF FEES FROM PUBLIC EMPLOYEES  
RETIREMENT SYSTEM FUNDS**

AN ACT to amend and reenact subsection 6 of section 54-52-04 of the North Dakota Century Code, relating to the exclusion of certain professional fees from the public employees retirement system's appropriation; and to declare an emergency.

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

\* SECTION 1. AMENDMENT. Subsection 6 of section 54-52-04 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. The board shall select the funding agent or agents and establish an investment agreement contract. The contract shall authorize the funding agent or agents to hold and invest moneys for the system. No moneys of the system shall be invested by the board. ~~Said moneys~~ Moneys of the system shall be placed for investment only with a firm or firms whose primary endeavor is money management, and only after a trust agreement or contract has been executed. All securities, agreements, contracts, or instruments of value shall be delivered to the Bank of North Dakota, or its agents. Except for ~~dispensing~~ disbursing money for investment to the funding agent or agents, or paying prior service benefits, funding agent or agents management fees, performance measurement fees, actuarial consultant fees, auditors fees, or making withdrawal payments and refunds, the board shall expend money only for administrative purposes by preparing an appropriate voucher and submitting such voucher to the office of management and budget and as limited by the appropriation first made by the legislative assembly.

SECTION 2. EMERGENCY. This Act is hereby declared to be an emergency measure and is in effect from and after its passage and approval.

Approved March 14, 1985

\* NOTE: Section 54-52-04 was also amended by section 3 of Senate Bill No. 2050, chapter 285.

## CHAPTER 582

HOUSE BILL NO. 1127  
(Committee on State and Federal Government)  
(At the request of the Public Employees Retirement System)

## JUDGES' RETIREMENT CONTRIBUTIONS

AN ACT to amend and reenact section 54-52-06.1 of the North Dakota Century Code, relating to the employer contribution for the judges' retirement plan.

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

SECTION 1. AMENDMENT. Section 54-52-06.1 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-06.1. Contribution by supreme and district court judges - Employer contribution. Each judge of the supreme or district court who is a member of the public employees retirement system shall be assessed and required to pay monthly five percent of the judge's monthly salary ~~paid to him, and such.~~ The assessment shall ~~must~~ be deducted and retained out of ~~his~~ the judge's salary in equal monthly installments. Effective July 1, 1985, the state shall contribute an amount equal to ~~thirteen and four-tenths~~ fifteen and fifty-two one-hundredths percent of the monthly salary of a supreme or district court judge who is a participating member of the system, which matching contribution shall be paid from its funds appropriated for salary, or from any other funds available for such purposes. If the judge's contribution is paid by the state under subsection 3 of section 54-52-05, the state shall contribute, in addition, an amount equal to the required judge's contribution.

Approved April 11, 1985

## CHAPTER 583

HOUSE BILL NO. 1131  
(Committee on State and Federal Government)  
(At the request of the Public Employees Retirement System)

## PERS YEARS OF SERVICE CREDIT

AN ACT to amend and reenact subsection 1 of section 54-52-17 of the North Dakota Century Code, relating to the maximum number of years of service credit under the public employees retirement system.

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

SECTION 1. AMENDMENT. Subsection 1 of section 54-52-17 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Participating members shall receive credit for full-time employment or its equivalent from the date they attain eligibility until their normal retirement date ~~or~~ postponed retirement date, or early retirement date, as defined in this section. ~~No participating member shall receive credit for more than thirty-five years of full-time employment unless such member has contributed to the plan or its predecessor established on July 1, 1966, in excess of thirty-five years; members who have contributed to these plans in excess of thirty-five years shall receive credit for the years of full-time employment after July 1, 1966.~~ Part-time employment will be recognized as full-time employment on such a prorated basis as the board may prescribe.

Approved March 14, 1985

## CHAPTER 584

HOUSE BILL NO. 1384  
(Mertens, Martinson)

## PUBLIC EMPLOYEE RETIREMENT BENEFIT AGE

AN ACT to amend and reenact subdivision a of subsection 3 of section 54-52-17 of the North Dakota Century Code, relating to eligibility for retirement benefits under the public employees retirement system.

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

SECTION 1. AMENDMENT. Subdivision a of subsection 3 of section 54-52-17 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- a. Normal retirement date is the first day of the month next following the month in which the member attains the age of sixty-five years or when the member is at least the age of sixty and has a combined total of years of service credit and years of age equal to ninety and has not received a retirement benefit under this chapter.

Approved March 27, 1985

## CHAPTER 585

HOUSE BILL NO. 1129  
(Committee on State and Federal Government)  
(At the request of the Public Employees Retirement System)

## PERS BENEFIT CALCULATION

AN ACT to amend and reenact subdivision a of subsection 4 of section 54-52-17 of the North Dakota Century Code, relating to the calculation of service benefits under the public employees retirement system.

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

SECTION 1. AMENDMENT. Subdivision a of subsection 4 of section 54-52-17 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- a. Normal retirement benefits for all retirees, except supreme and district court judges, reaching normal retirement date shall be an annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which shall be determined as follows:
- (1) Service benefit equals one and ~~twenty-hundredths~~ thirty-hundredths percent of final average salary multiplied by the number of years of service employment.
  - (2) Prior service benefit equals one and ~~twenty-hundredths~~ thirty-hundredths percent of final average salary multiplied by the number of years of prior service employment.
  - (3) All participants retiring prior to July 1, ~~1983~~ 1985, will have their benefits calculated at one and ~~twenty-hundredths~~ thirty-hundredths percent of final average salary, multiplied by the number of years of service employment, with the increased benefits payable beginning July 1, ~~1983~~ 1985.

Approved March 14, 1985

## CHAPTER 586

HOUSE BILL NO. 1128  
(Committee on State and Federal Government)  
(At the request of the Public Employees Retirement System)

## PUBLIC EMPLOYEE OPTIONAL DEATH BENEFIT

AN ACT to amend and reenact subsection 6 of section 54-52-17 of the North Dakota Century Code, relating to optional death benefit payment under the public employees retirement system.

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

SECTION 1. AMENDMENT. Subsection 6 of section 54-52-17 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. If prior to retiring a member dies after completing ten years of eligible employment, but prior to retiring, the board shall pay the member's account balance to any beneficiary designated by the member with the written consent of the member's spouse, if any. If the member has not designated any beneficiary under this section the surviving spouse of the member may select one of the following optional forms of payment:
  - a. A lump sum payment of the member's retirement account as of the date of death;
  - b. Payments for sixty months as calculated for the deceased member as if the member was age sixty-five at the date of death; or
  - c. Payment of a monthly retirement benefit equal to fifty percent of the deceased member's accrued normal retirement benefits until the spouse dies. If the spouse dies the provisions of subsection 8 shall be is applicable.

Approved March 27, 1985

## CHAPTER 587

### SENATE BILL NO. 2472 (Peterson)

## LEGISLATIVE SERVICE RETIREMENT CREDIT

AN ACT to create and enact a new subsection to section 15-39.1-24, a new section to chapter 18-11, a new section to chapter 39-03.1, a new section to chapter 40-45, a new section to chapter 40-46, and a new section to chapter 54-52 of the North Dakota Century Code, relating to the purchase of retirement service credit by persons who have served in the legislative assembly under the teachers' fund for retirement, the alternate firemen's relief association retirement plan, the highway patrolmen's retirement system, city police pension plans, city employee pension plans, and the public employees retirement system.

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

SECTION 1. A new subsection to section 15-39.1-24 of the North Dakota Century Code is hereby created and enacted to read as follows:

A teacher may purchase service credit for the time during each legislative session spent serving as a member of the legislative assembly while holding eligible employment under this chapter. Service credit for legislative sessions prior to July 1, 1985, must be purchased before January 1, 1986. Service credit for each later legislative session must be purchased within one year after the adjournment of that legislative session.

SECTION 2. A new section to chapter 18-11 of the North Dakota Century Code is hereby created and enacted to read as follows:

**Purchase of legislative service credit.** A member may, prior to retirement, purchase service credit for the time during each legislative session spent serving as a member of the legislative assembly while employed as a fireman under this chapter. The member shall pay for this service credit an amount equal to the required member assessments and the employer contributions for that period of time plus interest as established by the board of trustees of the association. Service credit for legislative sessions prior to

July 1, 1985, must be purchased before January 1, 1986. Service credit for each later legislative session must be purchased within one year after the adjournment of that legislative session.

**SECTION 3.** A new section to chapter 39-03.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

**Purchase of legislative service credit.** A contributor may, prior to retirement, purchase service credit for the time during each legislative session spent serving as a member of the legislative assembly while a member of the fund. The contributor shall pay for the service credit an amount equal to the required member contributions and the state contributions for that period of time plus interest as established by the board. Service credit for legislative sessions prior to July 1, 1985, must be purchased before January 1, 1986. Service credit for each later legislative session must be purchased within one year after the adjournment of that legislative session.

**SECTION 4.** A new section to chapter 40-45 of the North Dakota Century Code is hereby created and enacted to read as follows:

**Purchase of legislative service credit.** A member of a policemen's pension fund under this chapter may, prior to retirement, purchase for inclusion in the period of service in the department the time during each legislative session spent serving as a member of the legislative assembly while a member of the pension fund. The member shall pay for this service an amount equal to the required member assessments and employer contributions plus interest as established by the board of trustees. Service credit for legislative sessions prior to July 1, 1985, must be purchased before January 1, 1986. Service credit for each later legislative session must be purchased within one year after the adjournment of that legislative session.

**SECTION 5.** A new section to chapter 40-46 of the North Dakota Century Code is hereby created and enacted to read as follows:

**Purchase of legislative service credit.** An employee of a city having a pension fund under this chapter may, prior to retirement, purchase service for inclusion in the period of service required under this chapter for eligibility for retirement the time during each legislative session spent serving as a member of the legislative assembly while a member of the pension fund. The employee shall pay for this service an amount equal to the required member assessments and employer contributions plus interest as established by the board of trustees. Service credit for legislative sessions prior to July 1, 1985, must be purchased before January 1, 1986. Service credit for each later legislative session must be purchased within one year after the adjournment of that legislative session.

**SECTION 6.** A new section to chapter 54-52 of the North Dakota Century Code is hereby created and enacted to read as follows:

Purchase of legislative service credit. A member may purchase service credit for the time during each legislative session spent serving as a member of the legislative assembly while holding eligible employment under this chapter. The member shall pay for this service credit an amount equal to the required member assessments and employer contributions plus interest as established by the board. Service credit for legislative sessions prior to July 1, 1985, must be purchased before January 1, 1986. Service credit for each later legislative session must be purchased within one year after the adjournment of that legislative session.

Approved March 29, 1985

## CHAPTER 588

HOUSE BILL NO. 1242  
(Committee on State and Federal Government)  
(At the request of the Legislative Compensation Commission)

### FORMER LEGISLATOR STATE HEALTH GROUP MEMBERSHIP

AN ACT to amend and reenact section 54-52.1-03 of the North Dakota Century Code, relating to membership in the state employees' uniform group insurance program by former members of the legislative assembly.

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

\* SECTION 1. AMENDMENT. Section 54-52.1-03 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52.1-03. Employee participation in plan - Employee to furnish information - Benefits to continue upon retirement or termination. Any eligible employee may be enrolled in the uniform group insurance program created by this chapter by requesting enrollment with the employing department. An eligible employee who requests enrollment shall be enrolled with the board by the employing department within five days after the expiration of the payroll period during which enrollment was requested. The employee's insurance coverage shall become effective on the date of his enrollment. Upon the termination of eligible employment of a member of the legislative assembly or upon the retirement of an eligible employee who is entitled to a retirement allowance from a department, board, or agency, or upon the termination of employment of an eligible employee not of retirement age who, upon retirement, will receive a deferred retirement allowance from a department, board, or agency, such employee may continue as a member of the uniform group under the provisions of this chapter; provided, that except for tenured faculty employees of state institutions of higher learning who have entered into agreed plans of retirement with the institution and subject to the rules of the state board of higher education no state contribution for such a retired or terminated employee shall be made, and the employee shall pay the premiums directly to the board. Upon the termination of employment where the employee is not a member of the legislative assembly or entitled to either retirement benefits or a deferred retirement allowance, such employee shall not continue as a member of the uniform group unless the employee was on

\* NOTE: Section 54-52.1-03 was also amended by section 3 of Senate Bill No. 2156, chapter 205.

the uniform group insurance retiree billings as of July 1, 1974, but may continue on an individual basis with the carrier, with such coverage to be offered at the lowest possible rate, to be determined by the board. A member or former member of the legislative assembly may elect to continue membership in the uniform group within the applicable time limitations after either termination of eligible employment as a member of the legislative assembly or termination of other eligible employment. Each eligible employee requesting enrollment shall furnish the appropriate person in the employing department, board, or agency with such information and in such form as prescribed by the board to enable the enrollment of himself, or himself and his dependents, in the uniform group insurance program created by this chapter. In the event the participating employee is a teacher in a state charitable, penal, or educational institution who receives a salary or wages on a nine-month basis and has signed a contract to teach for the next ensuing school year, the agency shall make arrangements to include such employee in the insurance program on a twelve-month basis and make the contribution authorized by this section for each month of the twelve-month period.

Approved April 4, 1985

## CHAPTER 589

HOUSE BILL NO. 1382  
(Martinson)**PUBLIC EMPLOYEES' DEFERRED COMPENSATION  
PROGRAM**

AN ACT to create and enact a new section to chapter 54-52.2 of the North Dakota Century Code, relating to the appointment of an executive director and other personnel by the state deferred compensation committee; and to amend and reenact sections 54-52.2-01 and 54-52.2-03 of the North Dakota Century Code, relating to the deferred compensation program for public employees.

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

SECTION 1. AMENDMENT. Section 54-52.2-01 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52.2-01. Deferred compensation program for public employees - Contract. The state or any county, city, or other political subdivision may, by contract, agree with any employee to defer, in whole or in part, any portion of that employee's compensation and may subsequently, with the consent of the employee, fund a deferred compensation program for the employee. The deferred compensation program may consist of a contract, purchase, or investment in a fixed or variable life insurance or annuity contract from any life underwriter duly licensed by this state who represents an insurance company licensed to contract business in this state, a savings account at a federally insured financial institution or the Bank of North Dakota, an account with or managed by a dealer registered under chapter 10-04, or any combination of contracts or accounts authorized by this section, as specified by the employee. The committee shall specify methods of payment of deferred compensation funds to be selected by individual employees. The committee shall determine the number of employees participating in a deferred compensation program necessary to qualify for automatic payroll deduction.

SECTION 2. AMENDMENT. Section 54-52.2-03 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52.2-03. **Deferred compensation program - Administration - Contract for services.** The administration of the deferred compensation program for each state agency, department, board, commission, or institution shall be under the direction of the state deferred compensation committee. The committee shall consist of three persons ~~who cannot participate in the deferred compensation program.~~ The governor shall appoint the initial committee and shall appoint persons to fill any vacancy occurring at the expiration of a term. Committee members shall select the person to fill any vacancy occurring prior to the expiration of a term. The initial terms of office are as follows: one member shall serve a one-year term, one member shall serve a two-year term, and one member shall serve a three-year term. The term of office thereafter is three years. Each county, city, or other political subdivision shall designate an officer to administer the deferred compensation program or appoint the state deferred compensation committee to administer the program in its behalf. Payroll reductions shall be made in each instance, by the appropriate payroll officer. The deferred compensation committee of the deferred compensation program may contract with a private corporation or institutions for providing consolidated billing and other administrative services. The deferred compensation committee shall administer the deferred compensation program based on a plan in compliance with the appropriate provisions of the Internal Revenue Code and regulations adopted under those provisions.

**SECTION 3.** A new section to chapter 54-52.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

Deferred compensation program - Executive director - Staff - Funding. The state deferred compensation committee may appoint an executive director to assist in the administration of the program. The executive director may be the executive director of the public employees retirement system. The executive director shall be bonded by the state bonding fund in the amount required by the committee and shall perform such duties as assigned by the committee. The committee shall authorize the creation of whatever staff it deems necessary for sound and economical administration of the program. The executive director shall hire the staff, subject to the approval of the committee. The committee may arrange for and contract with investment advisers, master trustees, and other state boards or agencies for money management services. After July 1, 1987, the expenses of the program shall be borne and payable by an assessment in an amount determined by the committee on each account currently receiving contributions.

Approved March 27, 1985