

# STATE GOVERNMENT

## CHAPTER 626

HOUSE BILL NO. 1269

(Representatives Mertens, Schneider, Kloubec)  
(Senators Heigaard, Olson, Stromme)

### BOUNDARY ADVISORY COMMITTEE

AN ACT to amend and reenact section 54-01-17.2 of the North Dakota Century Code, establishing the North Dakota-Saskatchewan-Manitoba boundary advisory committee; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-01-17.2 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-01-17.2. North Dakota-Saskatchewan-Manitoba boundary advisory committee. The North Dakota-Saskatchewan-Manitoba boundary advisory committee consists of the governor, who shall act as chairman, five members of the legislative assembly ~~who shall to~~ be chosen by the chairman of the legislative council ~~and, one of whom shall is to~~ be chosen by the committee to act as vice chairman, and five executive branch members, appointed by the governor. ~~The executive branch members shall include one member each from the areas of agriculture, agricultural research, water resources, economic development and tourism, and environmental protection.~~ The committee shall meet with an appropriate body of the province of Saskatchewan, an appropriate body of the province of Manitoba, or jointly with the appropriate bodies of both provinces, for the purpose of discussion of matters of mutual concern. The committee shall make any recommendations it deems necessary to the appropriate government or private entity. The expenses incurred by the executive branch members and the legislative council members in the performance of their duties under this section ~~shall~~ must be paid from funds appropriated for the respective offices and agencies.

SECTION 2. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$4,000, or so much thereof as may be necessary, to the governor's office for the purpose of defraying the expenses of hosting meetings of the North Dakota-Saskatchewan-Manitoba boundary advisory committee for the biennium beginning July 1, 1989, and ending June 30, 1991.

Approved March 14, 1989  
Filed March 15, 1989

## CHAPTER 627

HOUSE BILL NO. 1195  
(Committee on Political Subdivisions)  
(At the request of the Highway Department)

### DISPLACED PERSON RELOCATION ASSISTANCE

AN ACT to amend and reenact sections 54-01.1-01, 54-01.1-02, 54-01.1-03, 54-01.1-04, 54-01.1-05, 54-01.1-06, 54-01.1-07, 54-01.1-08, 54-01.1-09, 54-01.1-10, 54-01.1-12, and 54-01.1-16 of the North Dakota Century Code, relating to relocation assistance programs, expanded policy declaration, definitions, displacement expenses and expense limits, mode of payment, advisory information and planning, available housing assurance, adoption of rules, uniform administration, nonduplication of payment, gender neutralization, and reference source; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-01.1-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-01.1-01. Declaration of policy. The purpose of this chapter is to establish a uniform policy for the fair and equitable treatment of persons displaced as a direct result of programs or projects undertaken by a state agency so that displaced persons will not suffer disproportionate injuries as a result of programs and projects designed for the benefit of the public as a whole and to minimize the hardship of displacement by the acquisition of real property by state and local land acquisition programs, by federally assisted building code enforcement programs, or by a program of voluntary rehabilitation of buildings or other improvements conducted pursuant to governmental supervision. The policy shall be uniform as to:

1. Relocation payment;
2. Advisory assistance;
3. Assurance of availability of standard housing; and
4. State reimbursement for local relocation payments under state-assisted and local programs.

SECTION 2. AMENDMENT. Section 54-01.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-01.1-02. Definitions. As used in this chapter:

1. "Agency" means any department, agency, or instrumentality of the state or of a political subdivision of the state; or any department, agency, or instrumentality of two or more political subdivisions of the state.

- ~~2-~~ "Business" means any lawful activity, excepting a farm operation, conducted primarily:
- For the purchase, sale, lease, and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;
  - For the sale of services to the public;
  - By a nonprofit organization; or
  - For the purposes of subsection 1 of section 54-01.1-03, for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above-mentioned activities are conducted.
2. "Comparable replacement dwelling" means any dwelling that is:
- Decent, safe, and sanitary;
  - Adequate in size to accommodate the occupants;
  - Within the financial means of the displaced person;
  - Functionally equivalent;
  - In the area not subject to reasonably adverse environmental conditions; and
  - In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, services, and the displaced person's place of employment.
3. "Displacing agency" means the state, state agency, or person carrying out a federal or state financially assisted program or project that causes a person to be a displaced person.
- ~~3-~~ 4. "Displaced person", except as provided in subdivision c, means any person who, on or after July 1, 1973, moves from real property, or moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, or as the result of the written order of the acquiring agency to vacate real property, for a program or project undertaken by an agency, and solely for the purposes of subsections 1 and 2 of section 54-01.1-03 and section 54-01.1-06, as a result of the acquisition of or as the result of the written order of the acquiring agency to vacate other real property, on which such person conducts a business or farm operation, for such program or project:
- Any person who moves from real property, or moves the person's personal property from real property:



individual in connection with the purchase and occupancy of a residence by that individual.

- ~~6-~~ 7. "Mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the state in which the real property is located, together with the credit instruments, if any, secured thereby.
8. "Nonprofit organization" means a corporation organized under the North Dakota Nonprofit Corporation Act, chapters 10-24 through 10-28, or an organization defined in subsection 7, 8, 9, 10, or 11 of section 57-02-08.
- ~~7-~~ 9. "Person" means any individual, partnership, corporation, or association.
10. "State agency" means any department, agency, or instrumentality of the state or of a political subdivision of the state, any department, agency, or instrumentality of two or more states, or two or more political subdivisions of the state, or states, and any person who has the authority to acquire property by eminent domain under state law.

SECTION 3. AMENDMENT. Section 54-01.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-01.1-03. Moving and related expenses.

1. If an agency acquires real property for public use, it shall make fair and reasonable relocation payments to displaced persons and businesses as required by this chapter for Whenever a program or project to be undertaken by a displacing agency will result in the displacement of any person, the displacing agency shall provide for the payment to the displaced person of:
- a. Actual, reasonable expenses in moving himself, his family, business, farm operation, or other personal property;
  - b. Actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the state agency; and
  - c. Actual, reasonable expenses in searching for a replacement business or farm; and
  - d. Actual reasonable expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at its new site, but not to exceed ten thousand dollars.
2. Any displaced person eligible for payments under subsection 1 who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection 1 may receive a moving expense allowance, determined according to a schedule established by the state agency, not to

- exceed three hundred dollars; and a dislocation allowance of two hundred dollars.
3. Any displaced person eligible for payments under subsection 1, who is displaced from his the person's place of business or from his farm operation and who elects and is eligible under criteria established by the state agency, may elect to accept the payment authorized by this subsection in lieu of the payment authorized by subsection 1; may receive. Such payment shall consist of a fixed payment in an amount equal to the average annual net earnings of the business or farm operation to be determined according to criteria established by the state agency, except that the payment shall not be less than two one thousand five hundred dollars, nor more than ten twenty thousand dollars. In the case of a business; no payment shall be made under this subsection unless the agency is satisfied that the business:
- a. Cannot be relocated without a substantial loss of its existing patronage; and
  - b. Is not a part of a commercial enterprise having at least one other establishment not being acquired by the agency; which is engaged in the same or similar business.

For purposes of this subsection; the term "average annual net earnings" means one-half of any net earnings of the business or farm operation before federal and state income taxes during the two taxable years immediately preceding the taxable year in which the business or farm operation moves from the real property acquired for the project; or during such other period as the agency determines to be more equitable for establishing the earnings; and includes any compensation paid by the business or farm operation to the owner; his spouse; or his dependents during such period. A person whose sole business at the displacement dwelling is the rental of the property to others does not qualify for a payment under this subsection.

SECTION 4. AMENDMENT. Section 54-01.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-01.1-04. Replacement housing for homeowners.

1. In addition to payments otherwise authorized by this chapter, the displacing agency shall make an additional payment not in excess of fifteen thousand twenty-two thousand five hundred dollars to any displaced person who is displaced from a dwelling actually owned and occupied by the displaced person for not less than one hundred eighty days prior to the initiation of negotiations for the acquisition of the property. The additional payment shall include the following elements:
- a. The amount, if any, which, when added to the acquisition cost of the dwelling acquired, equals the reasonable cost of a comparable replacement dwelling which is a decent, safer, and sanitary dwelling adequate to accommodate such displaced person; reasonably accessible to public services and places of employment; and available on the private market. All

determinations required to carry out this subdivision shall be determined by regulations issued pursuant to section 54-01.1-08;

- b. The amount, if any, which will compensate the displaced person for any increased interest costs and other debt service costs which the person is required to pay for financing the acquisition of a comparable replacement dwelling. The amount shall be paid only if the dwelling acquired was encumbered by a bona fide mortgage which was a valid lien on the dwelling for not less than one hundred eighty days prior to the initiation of negotiations for the acquisition of the dwelling. The amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling over the remainder term of the mortgage on the acquired dwelling reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located as determined by the agency; and
  - c. Reasonable expenses incurred by the displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.
2. The additional payment authorized by this section shall be made only to a displaced person who purchases and occupies a decent, safe, and sanitary replacement dwelling which is decent, safe, and sanitary not later than the end of the one-year period beginning on within one year after the date on which he receives final payment of all costs of from the displacing agency for the acquired dwelling or on the date on which he moves from the acquired dwelling the displacing agency's obligation under section 54-01.1-07 is met, whichever is the later date, except that the displacing agency may extend the period for good cause. If the period is extended, the payment under this section must be based on the costs of relocating the person to a comparable replacement dwelling within one year of such date.

SECTION 5. AMENDMENT. Section 54-01.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-01.1-05. Replacement housing for tenants and certain others.

1. In addition to amounts otherwise authorized by this chapter, an a displacing agency shall make a payment to or for any displaced person displaced from any dwelling not eligible to receive a payment under section 54-01.1-04, which dwelling was actually and lawfully occupied by the displaced person for not less than ninety days prior to the:
  - a. The initiation of negotiations for acquisition of such dwelling. The payment shall be either; or

- 1- The amount necessary to enable the displaced person to lease or rent; for a period not to exceed four years; a decent; safe; and sanitary dwelling of standards adequate to accommodate the person in areas not generally less desirable in regard to public utilities and public and commercial facilities; and reasonably accessible to his place of employment; but not to exceed four thousand dollars; or
  - 2- The amount necessary to enable the person to make a down payment (including incidental expenses described in subdivision c of subsection 1 of section 54-01.1-04) on the purchase of a decent; safe; and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities; but not to exceed four thousand dollars; except that if the amount exceeds two thousand dollars; the person must equally match any amounts in excess of two thousand dollars; in making the down payment
- b. In any case in which displacement is not a direct result of acquisition, such other event as the state agency may prescribe.

The payment must consist of the amount necessary to enable the person to lease or rent for a period not to exceed forty-two months, a comparable replacement dwelling, but not to exceed five thousand two hundred fifty dollars. At the discretion of the displacing agency, a payment under this subsection may be made in periodic installments. Computation of a payment under this subsection to a low-income displaced person for a comparable replacement dwelling must take into account such person's income.

2. Any person eligible for a payment under subsection 1 may elect to apply the payment to a down payment on, and other incidental expenses pursuant to, the purchase of a decent, safe, and sanitary replacement dwelling. At the discretion of the displacing agency, any such person may be eligible under this subsection for the maximum payment allowed under subsection 1, except that, in the case of a displaced homeowner who has owned and occupied the displacement dwelling for at least ninety days but not more than one hundred eighty days immediately prior to the initiation of negotiations for the acquisition of the dwelling, the payment may not exceed the payment the person would otherwise have received under subsection 1 of section 54-01.1-04 had the person owned and occupied the displacement dwelling one hundred eighty days immediately prior to the initiation of such negotiations.

SECTION 6. AMENDMENT. Section 54-01.1-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-01.1-06. Relocation assistance advisory programs.

1. Whenever the acquisition of real property for a program or project undertaken by an a displacing agency will result in the displacement of any person on or after July 1, 1973, the displacing agency shall provide a relocation assistance advisory program for displaced persons which shall offer the services prescribed in subsection 2. If the displacing agency determines that any person

occupying property immediately adjacent to the ~~real~~ property ~~acquired~~ where the displacing activity occurs is caused substantial economic injury because of the acquisition, it may offer the person relocation advisory services under the program.

2. Each relocation assistance program required by subsection 1 shall include such measures, facilities, or services as may be necessary or appropriate in order:
  - a. To determine, and make timely recommendations on, the needs of displaced persons, ~~business concerns,~~ and ~~nonprofit organizations~~ for relocation assistance;
  - b. To assist owners of displaced businesses and farm operations in obtaining and becoming established in suitable business locations or replacement farms;
  - c. To supply ~~information:~~
    - (1) ~~Information concerning programs of the federal, state, and local governments offering assistance to displaced persons and business concerns; and~~
    - (2) ~~Technical assistance to such persons in applying for assistance under such programs.~~
  - d. To assist in minimizing hardships to displaced persons in adjusting to relocation; ~~and~~
  - e. To secure, to the greatest extent practicable, the coordination of relocation activities with other project activities and other planned or proposed governmental actions in the community or nearby areas which may affect the carrying out of the relocation program; ~~and~~
  - f. To ~~provide current and continuing information on the availability, sales prices, and rental charges of comparable replacement dwellings for displaced homeowners and tenants and suitable locations for businesses and farm operations.~~
3. ~~Programs or projects undertaken by a displacing agency must be planned in a manner that:~~
  - a. ~~Recognizes, at an early stage in the planning of such programs or projects and before the commencement of any actions that will cause displacements, the problems associated with the displacement of individuals, families, businesses, and farm operations, and~~
  - b. ~~Provides for the resolution of such problems in order to minimize adverse impacts on displaced persons and to expedite program or project advancement and completion.~~
4. ~~Notwithstanding subsection 4 of section 54-01.1-02, in any case in which a displacing agency acquires property for a program or project, any person who occupies that property on a rental basis, for a short term or a period subject to termination when the~~

property is needed for the program or project, is eligible for advisory services to the extent determined by the displacing agency.

SECTION 7. AMENDMENT. Section 54-01.1-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-01.1-07. Assurance of availability of standard housing. Whenever the acquisition of real property for a program or project undertaken by an agency will result in the displacement of any person on or after July 1, 1975, the agency shall assure that, within a reasonable period of time prior to displacement, there will be available in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe, and sanitary dwellings equal in number to the number of and available to displaced persons who require dwellings and reasonably accessible to their places of employment, except that regulations issued pursuant to section 54-01.1-08 may prescribe situations when these assurances may be waived:

1. If a program or project undertaken by a displacing agency cannot proceed on a timely basis because comparable replacement dwellings are not available, and the head of the displacing agency determines that such dwellings cannot otherwise be made available, the head of the displacing agency may take such action as is necessary or appropriate to provide such dwellings by use of funds authorized for such project. The displacing agency may use this section to exceed the maximum amounts that may be paid under sections 54-01.1-04 and 54-01.1-05 on a case-by-case basis for good cause as determined in accordance with section 54-01.1-08 regulations issued by the state agency.
2. No person may be required to move from a dwelling on account of any program or project undertaken by the displacing agency unless the displacing agency is satisfied that comparable replacement housing is available to the person.
3. The displacing agency shall assure that a person will not be required to move from a dwelling unless the person has had a reasonable opportunity to relocate to a comparable replacement dwelling, except in the case of:
  - a. A major disaster as defined in section 102(2) of the Federal Disaster Relief Act of 1974;
  - b. A national emergency declared by the president; or
  - c. Any other emergency that requires the person to move immediately from the dwelling because continued occupancy of the dwelling by the person constitutes a substantial danger to the health or safety of the person.

SECTION 8. AMENDMENT. Section 54-01.1-08 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-01.1-08. Promulgation of rules and regulations. The head of each state agency shall consult, and other State agencies may consult, with the office of intergovernmental assistance on the establishment of to establish regulations and procedures for implementation of the provisions of this chapter. The head of each state agency, after consultation with the office of intergovernmental assistance, and the head or governing body of any other agency is authorized and to establish such regulations and procedures as he may determine to be necessary to assure:

1. That the payments and assistance authorized by this chapter shall be administered in a manner which is fair and reasonable, and as uniform as practicable;
2. That a displaced person who makes proper application for a payment authorized by this chapter shall be paid promptly after a move or, in hardship cases, be paid in advance; and
3. That any displaced person aggrieved by a determination as to eligibility for a payment, or as to the amount of a payment, may have his the application reviewed by the head or governing body of the state agency.

The head of an agency may prescribe other regulations and procedures, consistent with the provisions of this chapter, as he deems necessary or appropriate to carry out this chapter. All regulations and procedures established by state agencies shall be set forth in rules promulgated in the manner provided in chapter 26-32.

SECTION 9. AMENDMENT. Section 54-01.1-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-01.1-09. Administration. In order to prevent unnecessary expense and duplication of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons, the state agency may enter into contracts with any individual, firm, association, or corporation for services in connection with those programs, or may carry out its functions under this chapter through any federal agency or any department or instrumentality of the state or its political subdivisions having an established organization for conducting relocation assistance programs. The state agency shall, in carrying out relocation activities described in section 54-01.1-08, whenever practicable, utilize the services of state or local housing agencies, or other agencies having experience in the administration or conduct of similar housing assistance activities.

SECTION 10. AMENDMENT. Section 54-01.1-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-01.1-10. Fund availability. Funds appropriated or otherwise available to any state agency for the acquisition of real property or any interest therein for a particular program or project shall also be available also for obligation and expenditure to carry out the provisions of this chapter as applied to that program or project. No payment or assistance under this chapter is required to be made to any person or included as a program or project cost under this section, if the person receives a payment required by federal, state, or local law which is determined by the state agency to have substantially the same purpose effect as the payment under this chapter.

SECTION 11. AMENDMENT. Section 54-01.1-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-01.1-12. Displacement by federally assisted building code enforcement or by voluntary rehabilitation. A person who moves or discontinues ~~his~~ a business or moves other personal property, or moves from ~~his~~ a dwelling on or after the effective date of this chapter as the direct result of a federally assisted building code enforcement program, or of a program of rehabilitation of buildings conducted pursuant to a governmental program, is deemed to be a displaced person for the purposes of this chapter.

SECTION 12. AMENDMENT. Section 54-01.1-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-01.1-16. Real property acquisition policies. Any state agency engaged in a federally assisted program or project involving the acquisition of real property shall be guided, to the greatest extent practicable under state law, by the real property acquisition policies set forth in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 [Pub. L. 91-646, 42 U.S.C. 4651 through 4654] and the 1987 amendments enacted in Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 [Pub. L. 100-17, 101 Stat. 255-256].

SECTION 13. EFFECTIVE DATE. This Act becomes effective on April 2, 1989.

SECTION 14. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 16, 1989  
Filed March 16, 1989

## CHAPTER 628

HOUSE BILL NO. 1671

(Trautman)

(Approved by the Committee on Delayed Bills)

### STATE MARCH NAME

AN ACT to amend and reenact section 54-02-09 of the North Dakota Century Code, relating to the name of the state march.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-02-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-02-09. Adoption of North Dakota state march. "Spirit of the Land" "Flickertail March" as composed by Mr. James D. Ployhar is ~~hereby designated~~ ~~as~~ the North Dakota state march. The North Dakota state march ~~shall~~ must be played in a manner consistent with the respect and dignity due a state march and may be played at appropriate state functions.

Approved April 7, 1989  
Filed April 7, 1989

**CHAPTER 629**

SENATE BILL NO. 2496  
(Senators Mushik, W. Meyer)  
(Representatives Ulmer, Gerl, Tokach)

**STATE RAILROAD MUSEUM**

AN ACT to designate the Mandan railroad museum as the North Dakota state railroad museum.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. State railroad museum. The Mandan railroad museum, established in 1972 in Mandan, is hereby designated the North Dakota state railroad museum. No state agency or institution may provide appropriated funds to the state railroad museum nor is the state responsible for any obligations of the museum.

Approved March 28, 1989  
Filed March 28, 1989

## CHAPTER 630

HOUSE BILL NO. 1660  
(Stofferahn, R. Hausauer)  
(Approved by the Committee on Delayed Bills)

## LEGISLATIVE TRAVEL EXPENSES AND ASSISTANT LEADERS' COMPENSATION

AN ACT to amend and reenact sections 54-03-10 and 54-03-20 of the North Dakota Century Code, relating to compensation of assistant leaders and travel expense reimbursement for members of the legislative assembly; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-03-10 of the 1987 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, assistant 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 ten dollars per day for each calendar day during any regular, special, or organizational session. Chairmen of the substantive standing committees, the house assistant majority leader, the senate assistant majority leader, the house assistant minority leader, and the senate assistant minority leader shall receive additional compensation of 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, 1985.~~

\* SECTION 2. AMENDMENT. Section 54-03-20 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-03-20. Compensation and expense reimbursement of members of the legislative assembly. Each member of the legislative assembly of the state of North Dakota is entitled to receive as compensation for services the sum of ninety dollars for each calendar day, and is entitled to receive reimbursement for lodging, which may not exceed a maximum of six hundred dollars per calendar month for lodging in state, at the rates and in the manner provided in section 44-08-04 for each calendar 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 taken during any 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 ~~for travel by motor vehicle with the additional limitation that reimbursement for travel by~~

\* NOTE: Section 54-03-20 was also amended by section 1 of Senate Bill No. 2082, chapter 631.

common carrier may not exceed thirty-five cents per mile based upon air mileage. 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 travel by motor vehicle~~ for necessary travel for not to exceed one round trip taken 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 amount to which each legislator is entitled shall be paid following the organizational session in December and 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 day during a legislative session for the purposes of this section.

In addition, each member shall receive during the term for which the member was elected, as compensation for the execution of public duties during the biennium, the sum of one hundred eighty dollars a month, which is payable every six months. If a member dies or resigns from office during the member's term, the member shall be paid only the allowances provided for in this section for the period for which the member was actually a member.

Attendance at any organizational, special, or regular session of the legislative assembly by any member is a conclusive presumption of entitlement as set out in this section and 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, 1987.~~

SECTION 3. EFFECTIVE DATE. This Act is retroactively effective to January 1, 1989.

Approved April 15, 1989  
Filed April 17, 1989

## CHAPTER 631

SENATE BILL NO. 2082  
(Senators Streibel, Olson)  
(Representatives Kloubec, Schneider)

### LEGISLATIVE EXPENSE REIMBURSEMENT OPTIONS

AN ACT to amend and reenact section 54-03-20 of the North Dakota Century Code, relating to optional meals reimbursement in lieu of a portion of compensation for members of the legislative assembly; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Section 54-03-20 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-03-20. Compensation and expense reimbursement of members of the legislative assembly. Each member of the legislative assembly of the state of North Dakota is entitled to receive as compensation for services the sum of ninety dollars for each calendar day, and during any organizational, special, or regular legislative session. Each member of the legislative assembly whose home is ten miles or more from the capitol may make an election once during each organizational, special, or regular legislative session, binding for the remainder of the legislative session, to receive as compensation for services the sum of seventy-three dollars for each calendar day and to receive expense reimbursement for meals upon claims as provided in section 44-08-04. Each member of the legislative assembly is entitled to receive reimbursement for lodging, which may not exceed a maximum of six hundred dollars per calendar month for lodging in state, at the rates and in the manner provided in section 44-08-04 for each calendar 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 taken during any 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 for travel by motor vehicle. 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 travel by motor vehicle for necessary travel for not to exceed one round trip taken 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 amount to which each legislator is entitled shall be paid following the organizational session in December and 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 day during a legislative session for the purposes of this section.

\* NOTE: Section 54-03-20 was also amended by section 2 of House Bill No. 1660, chapter 630.

In addition, each member shall receive during the term for which the member was elected, as compensation for the execution of public duties during the biennium, the sum of one hundred eighty dollars a month, which is payable every six months. Each member of the legislative assembly may make an election, binding for the legislator's term of office, to receive the one hundred eighty dollars a month as reimbursement for uncompensated expenses, rather than as compensation. If a member dies or resigns from office during the member's term, the member shall be paid only the allowances provided for in this section for the period for which the member was actually a member.

Attendance at any organizational, special, or regular session of the legislative assembly by any member is a conclusive presumption of entitlement as set out in this section and 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, 1987.~~

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved February 1, 1989  
Filed February 1, 1989

## CHAPTER 632

HOUSE BILL NO. 1529  
(Representatives Wilkie, P. DeMers, Myrdal)  
(Senators David, O'Connell, Yockim)

**LEGISLATIVE ORGANIZATIONAL SESSION**

AN ACT to amend and reenact sections 54-03.1-03 and 54-44.1-07 of the North Dakota Century Code, relating to the organizational session agenda and presentation of the executive budget.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-03.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-03.1-03. Agenda. The agenda of the organizational session shall include, but not be limited to, the following:

1. Orientation classes upon legislative rules and procedure for new legislators;
2. Presentation of reports by legislative interim boards or committees;
3. Party caucuses to determine which party has a majority in each house of the legislative assembly and thereafter proceed to select party nominees for officers of each body;
4. Appointment of employment committees to process applications for positions of employment with the legislative assembly and make recommendation for hiring the selected employees;
5. Appointment of a senate committee on committees;
6. Each legislator shall present ~~his~~ the legislator's committee appointment preferences to the speaker of the majority party or the chairman of the interim senate committee on committees; ~~and~~
7. Presentation of the budget and revenue proposals recommended by the governor as provided in section 54-44.1-07; and
8. All other similar matters, in order that the legislative assembly be fully organized and ready to begin its business by the first day of the regular session.

SECTION 2. AMENDMENT. Section 54-44.1-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-44.1-07. Presentation of budget data - How presented to the legislative assembly. The director of the budget or ~~his~~ the director's

designated subordinate shall present the budget data information in section 54-44.1-06, including the budget and revenue proposals recommended by the governor, and make available sufficient copies thereof to the budget section of the legislative council assembly at the organizational session. The budget data shall be completed and made available to the budget section of the legislative council, or its designee, assembly in such form as may be acceptable to it by December first of each year next preceding the session of prescribed by the legislative assembly, or at such later date as may be set by the budget section chairman council. The chairman of the budget section legislative council shall set the time and place at which such budget data is to be presented.

Approved March 22, 1989  
Filed March 23, 1989

## CHAPTER 633

HOUSE BILL NO. 1105  
(Committee on State and Federal Government)  
(At the request of the State Auditor)

### STATE AGENCIES' ACCOUNTS

AN ACT to amend and reenact section 54-06-08.1 of the North Dakota Century Code, relating to petty cash funds and bank accounts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-06-08.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-06-08.1. Cash balances maintained by state agencies ~~collecting money~~ - Petty cash funds - Bank accounts. All departments, institutions, or agencies of the state ~~that collect money which is required to be paid over to the state treasurer~~ may, subject to approval of ~~the director of the office of management and budget,~~ the state auditor, and the state treasurer, maintain such reasonable minimum balance as may be necessary for clearing or cashing of checks and making change. Such departments are hereby authorized, subject to approval of ~~the director of the office of management and budget,~~ the state auditor, and the state treasurer, to maintain minimum petty cash funds and may establish bank accounts in the Bank of North Dakota. It is not the intent hereof to deny to any state institution or agency located outside of Bismarck the right to establish bank accounts in other state or federally chartered banks.

Approved March 14, 1989  
Filed March 15, 1989

## CHAPTER 634

SENATE BILL NO. 2520

(Satrom)

(Approved by the Committee on Delayed Bills)

**STATE EMPLOYEE UNUSED SICK LEAVE PAYMENT**

AN ACT to amend and reenact section 54-06-14 of the North Dakota Century Code, relating to partial payment of accrued sick leave to state employees at retirement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-06-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-06-14. Annual leave and sick leave for state employees ~~to be provided~~. Annual leave and sick leave ~~shall must~~ be provided for all persons in the permanent employment of this state who are not employed under a written contract of hire setting forth the terms and conditions of their employment, within the limitations, terms, and provisions of this section. Annual leave for an employee entitled ~~thereto shall~~ to it must be within a range of a minimum of one working day per month of employment to a maximum of two working days per month of employment, based on tenure of employment, to be fixed by rules and regulations adopted by the employing unit. Sick leave for an employee entitled ~~thereto shall~~ to it must be within a range of a minimum of one working day per month of employment to a maximum of one and one-half working days per month of employment, based on tenure of employment, to be fixed by rules and regulations adopted by the employing unit. Annual leave ~~shall must~~ be compensated for on the basis of full pay for the number of working days' leave credited to the employee. Sick leave ~~shall must~~ be compensated for on the basis of full pay for absence due to illness on working days during tenure of employment. An employee who accepts a retirement allowance under chapter 39-03.1, 54-52, 15-39.1, or under the alternative retirement program provided by the state board of higher education, is entitled at the time of retirement to a lump-sum payment equal to one-tenth of the pay attributed to the employee's unused sick leave accrued under this section. The pay attributed to the accumulated, unused sick leave must be computed on the basis of the employee's salary or wage at the time the employee retires from employment with the state and at the rate of one hour of pay for each hour of unused sick leave. The agency, unit, or entity that last employed the employee prior to retirement shall make the lump-sum payment from funds appropriated by the legislative assembly to that agency, unit, or entity for salaries and wages. Any state agency, unit, or entity which has such employee or employees is authorized and directed to employ persons subject to this section shall formulate and adopt such rules and regulations governing the granting of annual leave and sick leave as which will effectuate the purpose of this section and best suit the factors of employment of that particular employing unit. Each employing unit, upon passage of this section, shall file with the office of management and budget a copy of the rules and regulations adopted. Thereafter, including any amendments or additions thereto shall also be so filed to the rules.

Approved April 28, 1989  
Filed April 28, 1989

## CHAPTER 635

SENATE BILL NO. 2410  
(Senators Waldera, Mushik, Holmberg)  
(Representatives Scherber, Rydell, Wentz)

### BOARDS AND COMMISSIONS GENDER BALANCE

AN ACT to provide gender balance in the appointment of members of state boards, commissions, committees, and councils; and to amend and reenact sections 15-39.1-05 and 23-14-04 of the North Dakota Century Code, relating to the appointment of members of the board of trustees of the teachers' fund for retirement and district boards of health.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Appointive boards, commissions, committees, and councils - Gender balance. Appointments to boards, commissions, committees, and councils of the state established by this code, if not otherwise provided by law, should be gender balanced to the extent possible and to the extent that appointees are qualified to serve on those boards, commissions, committees, and councils. Any appointment in accordance with this section should be made in a manner that strives to seek gender balance based on the numbers of each gender belonging to the group from which appointments are made. Ex officio members are not to be included in determining gender balance under this section.

\* SECTION 2. AMENDMENT. Section 15-39.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-05. Management of fund. The fund ~~shall~~ must be managed by a board of trustees, which shall consist of the state treasurer, the superintendent of public instruction, and three persons to be appointed by the governor. ~~One of the appointees shall be a woman and a~~ A majority of the board ~~shall~~ must at all times consist of persons who are members of the fund. The term of the office of the appointees ~~shall be~~ is three years with ~~said~~ those terms fixed to terminate on June thirtieth of alternate years. The term of each appointee shall commence on July first next succeeding ~~his~~ the appointee's appointment.

\*\* SECTION 3. AMENDMENT. Section 23-14-04 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-14-04. District board of health. A district health unit ~~shall~~ must be organized by the appointment of a district board of health to consist of not less than five members, one of whom ~~shall~~ must be a physician, one a dentist, one a business or professional person, one a farmer, and one additional person, who ~~shall~~ must be appointed for terms as follows: One for one year, one for two years, one for three years, one for four years, and one for five years. All subsequent appointments ~~shall~~ must be for a term of five years. ~~In no instance shall the board be either all male or all female.~~ Each appointee shall serve until ~~his~~ the appointee's successor is appointed

\* NOTE: Section 15-39.1-05 was also amended by section 1 of House Bill No. 1371, chapter 219.

\*\* NOTE: Section 23-14-04 was also amended by section 26 of Senate Bill No. 2200, chapter 301.

and qualified, and if a vacancy occurs, the vacancy ~~shall~~ must be filled by appointing for the remainder of the unexpired term. Each appointee shall qualify by filing the constitutional oath of office, and in case of a district health unit, such oath ~~shall must~~ be filed in the office of the county auditor of the county having the larger population according to the most recent state or federal census. Each county in the district shall have at least one representative on the district board of health and counties of over fifteen thousand population shall have an additional representative for each fifteen thousand population or fraction thereof. In district units of less than five counties, each county shall have at least one representative on the district board of health and the additional representatives selected to constitute the minimum five-member board ~~shall must~~ be equitably apportioned among the counties on a population basis. In a city-county health district comprised of only one county and having a city or cities of fifteen thousand population or more, each city having a population of fifteen thousand or more shall have a representative on the district board of health for each fifteen thousand population or fraction thereof and the remaining population of the county, exclusive of the populations of cities with fifteen thousand population or more each, shall have a representative on the district board of health for each fifteen thousand population or fraction thereof. Members of the board may be compensated at the rate not to exceed forty-five dollars per day and not to exceed twenty-five days in any one year. ~~They~~ ~~shall and must~~ be reimbursed for expenses incurred in the manner and to the extent provided for state officers.

Approved April 6, 1989  
Filed April 7, 1989

## CHAPTER 636

SENATE BILL NO. 2519

(Heigaard)

(Approved by the Committee on Delayed Bills)

### DOCUMENT TRANSMISSION FEE

AN ACT to create and enact a new subsection to section 54-09-04 of the North Dakota Century Code, relating to the fee charged by the secretary of state for sending documents by electronic transmission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 54-09-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

For sending a copy of a document by electronic transmission, one dollar for each page.

Approved March 28, 1989

Filed March 28, 1989

## CHAPTER 637

HOUSE BILL NO. 1488  
(Representatives Laughlin, Kingsbury, Gunsch)  
(Senator Wogsland)

### AUDITOR CHARGE WAIVER

AN ACT to amend and reenact subsection 2 of section 54-10-01 of the North Dakota Century Code, relating to the waiver of charges by the state auditor.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 54-10-01 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Be vested with the duties, powers, and responsibilities involved in making a complete examination 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 that~~ receive and expend moneys from other than the general fund; ~~unless for good cause the amounts charged are waived by the auditor for a one-year period of time with the waiver subject to annual renewal after proper application has been filed with the auditor.~~ The governing board of any occupational and professional board or commission shall provide for an audit 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 may not audit such board or commission. Audits may be conducted at more frequent intervals if requested by the governor or legislative audit and fiscal review committee.

Approved March 21, 1989  
Filed March 23, 1989

## CHAPTER 638

HOUSE BILL NO. 1115  
(Committee on Transportation)  
(At the request of the State Auditor)

### HIGHWAY DEPARTMENT AUDITS

AN ACT to amend and reenact section 54-10-12 of the North Dakota Century Code, relating to the checking of perpetual physical property inventory of the state highway department.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-10-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-10-12. Highway department property. The state auditor shall be responsible for a spot check of the perpetual physical property inventory of the state highway department, during the audit process, and the costs thereof shall be paid from the state highway fund, and such cost shall not exceed five thousand dollars ~~annually~~ per audit.

Approved March 9, 1989  
Filed March 9, 1989

## CHAPTER 639

SENATE BILL NO. 2152  
(Committee on Political Subdivisions)  
(At the request of the State Auditor)

### POLITICAL SUBDIVISION AUDIT REQUESTS

AN ACT to amend and reenact sections 54-10-14 and 54-10-15 of the North Dakota Century Code, relating to the requirements for requesting a state audit by petition or at the request of the chairman of the board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-10-14 of the 1987 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~~ the duly appointed deputy auditors or other authorized agents, shall audit once every 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. Counties.
2. ~~Municipalities~~ Cities.
3. Park districts.
4. School districts.
5. Firemen's relief associations.
6. Airport authorities.
7. Public libraries.
8. Water resource districts.
9. Garrison Diversion Conservancy District.
10. Rural fire protection districts.
11. Special education districts.
12. Vocational education centers.
13. Correction centers.
14. Recreation service districts.

15. Weed boards.
16. Irrigation districts.

The state auditor may in lieu of conducting an audit every two years require annual reports from school districts with less than one hundred enrolled students, municipalities with less than three hundred population, 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 must contain such financial information as the state auditor may request. The state auditor may also make such additional examination or audit as he deems deemed necessary in addition to such the 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 qualified 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 by a certified public accountant or licensed public accountant, and such report must be in such form and contain such information as the state auditor may require in addition to other information, and in such case then the state auditor is not required to make the examination provided for in this section. The report must be in the form and content required by the state auditor. The number of copies as of the audit report requested by the state auditor of such audit reports must be filed with the state auditor by the certified public accountant or licensed public accountant making such performing the audit at the time that when the report of audit report is delivered to said the political subdivisions, and the subdivision. The governing board of such the subdivision may shall not pay the audit fee for such audit until evidence of such the 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 the subdivisions disclosed by such the audit reports, and failure to make such the corrections shall result in audits being resumed by the state auditor until such the irregularities, procedures, or illegal actions are corrected and fees for such the audits, so resumed, are 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 subdivision in preparing the audit report. All fees for the audits performed by the state auditor must be paid by the subdivision audited to the state treasurer and credited to the general fund of the state.

SECTION 2. AMENDMENT. Section 54-10-15 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-10-15. Audits of municipal agencies and school districts political subdivisions by order of governor or upon petition. When so ordered by the governor of this state, or on petition of thirty-five percent of the qualified electors of any school district or city for which audits are not provided in section 54-10-14, or at the request of the chairman or governing board of any such political subdivision, the The state auditor shall, through his, by duly appointed deputy auditors or other authorized persons, agents, shall audit the records of the governing body and the books, records, and financial accounts of the business manager or auditor thereof, as the case may be any political subdivision when ordered by the governor, requested by

the governing board, or upon petition of at least thirty-five percent of the qualified electors of any political subdivision enumerated in section 54-10-14 voting for the office of governor at the preceding general election or, in the case of school districts, upon petition of at least thirty-five percent of the qualified electors voting at the preceding school board election. Fees for such the audits shall be paid in accordance with the provisions of section 54-10-14 to the state treasurer, and by him credited to the general fund of the state.

Approved April 13, 1989  
Filed April 13, 1989

## CHAPTER 640

HOUSE BILL NO. 1126  
(Committee on Judiciary)  
(At the request of the Attorney General)

**ASSETS FORFEITURE FUND**

AN ACT to amend and reenact section 54-12-14 of the North Dakota Century Code, relating to the assets forfeiture fund; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-12-14 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-12-14. Assets forfeiture fund - Created - Purpose - Continuing appropriation. There is hereby created a fund to be known as the attorney general assets forfeiture fund. The fund consists of funds appropriated by the legislative assembly and additional funds obtained from moneys, assets, and proceeds seized and forfeited pursuant to section 19-03.1-36 and amounts remaining from the forfeiture of property after the payment of expenses for forfeiture and sale authorized by law. The total aggregate amount in the fund may not exceed five hundred thousand dollars and at the end of each fiscal year any moneys in excess of that amount must be deposited in the general fund. ~~Subject to legislative appropriation; the~~ The funds must be made available are appropriated, as a standing and continuing appropriation, to the attorney general for the following purposes:

1. For obtaining evidence for enforcement of any state criminal law or law relating to the control of drug abuse.
2. For paying, at the discretion of the attorney general, awards for information or assistance leading to a forfeiture under section 19-03.1-36.
3. For paying, at the discretion of the attorney general, any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, or sell property seized, detained, or forfeited pursuant to section 19-03.1-36, or of any other necessary expenses incident to the seizure, detention, or forfeiture of such property.
4. For equipping for law enforcement functions forfeited vessels, vehicles, and aircraft retained as provided by law for official use by the state controlled substances board or a law enforcement agency.
5. For paying, at the discretion of the attorney general, overtime compensation to agents of the bureau of criminal investigation and drug enforcement unit incurred as a result of investigations of violations of chapter 19-03.1.

6. For paying matching funds required to be paid as a condition for receipt of funds from a federal government program awarding monetary grants or assistance for the investigation, apprehension, or prosecution of persons violating the provisions of chapter 19-03.1.

The attorney general shall, with the concurrence of the director of the office of management and budget, establish the necessary accounting procedures for the use of such fund, and shall personally approve, in writing, all requests from the chief of the bureau of criminal investigation or the director of the drug enforcement unit for the use of said fund and shall be accountable to the legislative council, upon request, for the expenditure thereof.

Approved April 6, 1989  
Filed April 7, 1989

## CHAPTER 641

HOUSE BILL NO. 1141  
(Committee on Industry, Business and Labor)  
(At the request of the Attorney General)

### ATTORNEY GENERAL REFUND FUND

AN ACT to create and enact a new section to chapter 54-12 of the North Dakota Century Code, relating to the establishment of a fund in the state treasury to provide for the deposit of funds in cases where the consumer fraud division acts in a receivership capacity or otherwise provides refunds to consumers of amounts paid by persons or parties found to have violated the consumer fraud laws, for the payment of valid claims against cash deposit bonds posted by applicants for a transient merchant's license, and for the refund to the licensee of any remaining balance of the cash deposit bond posted by an applicant for a transient merchant's license; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-12 of the North Dakota Century Code is hereby created and enacted to read as follows:

Special fund established - Continuing appropriation. A special fund is established in the state treasury and designated as the attorney general refund fund. The attorney general shall deposit all moneys recovered by the consumer fraud division for refunds to consumers in cases where persons or parties are found to have violated the consumer fraud laws and all cash deposit bonds paid by applicants for a transient merchant's license who do not provide a surety bond. The moneys in the fund are appropriated, as necessary, for the following purposes:

1. To provide refunds of moneys recovered by the consumer fraud and antitrust division on behalf of consumers;
2. To pay valid claims against cash deposit bonds posted by transient merchant licensees; and
3. To refund, upon expiration of the two-year period after the expiration of the transient merchant's license, the balance of any cash deposit bond remaining after the payment of valid claims.

Approved March 9, 1989  
Filed March 9, 1989

## CHAPTER 642

HOUSE BILL NO. 1632  
(Representatives Kaldor, Huether)  
(Senator Stromme)

**INFORMATION SERVICES DIVISION**

AN ACT to create and enact two new sections to chapter 54-44.2 of the North Dakota Century Code, relating to the capitol telephone exchange and wide area telephone service; to amend and reenact section 54-16-11.1, subsections 3 and 5 of section 54-44-11, and sections 54-44.2-01, 54-44.2-02, 54-44.2-02.1, 54-44.2-02.2, 54-44.2-04, 54-44.2-06, and 54-44.2-07 of the North Dakota Century Code, relating to the redesignation of the office of central data processing as the information services division; and to repeal chapter 48-07 of the North Dakota Century Code, relating to the capitol telephone exchange and wide area telephone service.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Section 54-16-11.1 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-16-11.1. Emergency commission may increase revenues and appropriation authority for intergovernmental service fund agencies. Upon presentation of the verified petition provided for in section 54-16-10, the emergency commission shall meet to determine if additional demand from state agencies requires an increase in appropriation authority and revenue receipts for intergovernmental service agencies. Such agencies are limited to the information services division, central duplicating, ~~central data processing~~, ~~state communications~~, surplus property, and central microfilm.

SECTION 2. AMENDMENT. Subsections 3 and 5 of section 54-44-11 of the 1987 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

3. The office of management and budget shall establish a state ~~central data processing~~ information services operating fund to be used for the procurement and maintenance of data processing equipment and supplies and telecommunications equipment and supplies and for providing data processing and telecommunication services to state departments and agencies.
5. Each office, agency, or institution provided with purchasing, printing, data processing information services, or personnel training services, unless exempted by law, shall pay to the office of management and budget a proportionate share of the cost of such service as determined by the director of the office of management and budget, based on actual costs and actual usage. The amounts paid to the office of management and budget by the various offices,

\* NOTE: Section 54-16-11.1 was also amended by section 4 of Senate Bill No. 2022, chapter 51.

agencies, and institutions shall be deposited in the appropriate operating fund and shall be expended in accordance with legislative appropriations.

SECTION 3. AMENDMENT. Section 54-44.2-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-44.2-01. Office of central data processing Information services division - Creation. The office of central data processing information services division is hereby established in the office of management and budget. The director of the office of management and budget shall appoint a director of central data processing the information services division. The director of central data processing the information services division shall supervise and regulate electronic data processing activities of all of the executive branch state agencies, institutions, departments, and boards, except the job service North Dakota and the office of the adjutant general. The office of central data processing division shall establish an electronic data processing center which ~~shall~~ must, unless excepted by the director, be used by all executive branch state agencies, departments, and institutions except the institutions under the control of the board of higher education, the job service North Dakota, and the office of the adjutant general. The office of central data processing division shall provide data processing services to the legislative and judicial branches of government. If the office of central data processing division is unable to fulfill a request for service from the legislative or judicial branch of government, the service may be procured by the legislative or judicial branch within the limits of legislative appropriations.

The director of central data processing shall the information services division must be appointed upon the basis of education, experience, and other qualifications in data processing and administration, without reference to partisan politics, and ~~shall~~ must serve at the pleasure of the director of the office of management and budget. The director of central data processing the information services division shall employ such other professional, technical, and clerical personnel as ~~he may deem~~ the director determines to be necessary to carry out the duties prescribed in this chapter and shall, within the limits of the legislative appropriation, fix the salaries of all employees within the office of central data processing division. All personnel within the office of central data processing shall division must be allowed their actual and necessary travel expenses at the same rate as for other employees of the state.

SECTION 4. AMENDMENT. Section 54-44.2-02 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-44.2-02. Office of central data processing Information services division - Powers and duties. The office of central data processing information services division shall:

1. Provide systems design, programming, and other data processing services.
2. Design, plan, justify, and implement all data processing systems within and between state agencies ~~which that~~ utilize the services of the office of central data processing division.

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 the division for approval or disapproval a written request for data processing services which that require new data processing applications. A request ~~shall~~ must 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 may 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. The director of central data processing may authorize a user agency to house and operate electronic data processing equipment.
4. Provide data processing assistance and advisory service to the legislative, executive, and judicial branches.
5. Establish and justify data processing activities and costs in order that effectiveness can be measured.
6. Establish a data bank to eliminate the duplicate storage of common data and thereby develop more economical and efficient use of the data processing system. The data bank shall must consist of data, except where data is restricted from such use by law and such confidentiality cannot be reasonably maintained in such the data bank, contained within the files of all agencies, departments, and institutions being provided services by the office of central data processing division. If the data bank contains data of use to other departments, agencies, and institutions, such the data may be made available to such departments, agencies, and institutions after notice has been given to the agency, department, or institution from which the data was originally received.
7. Analyze proposals for executive branch agency word processing equipment and facility acquisitions and make such comments and recommendations as it may believe necessary so that such equipment and facilities will be compatible with electronic data processing equipment and programs under the supervision of central data processing the division. The office of management and budget ~~shall~~ may not approve vouchers for acquisition of word processing equipment and facilities by executive branch agencies unless such the vouchers have attached to them the central data processing office's division's comments and recommendations.
8. Conduct conferences and meetings with various state agencies, departments, institutions, and political subdivisions to review proposals and provide information on improving telecommunications and transmission facilities in government.

9. Implement improvements in the state telecommunications and transmission facilities as are feasible and within the limitations of appropriated funds.
10. Adopt any rules determined to be necessary to establish standard procedures and practices in the development and use of telecommunications and transmission facilities provided by the office division.
11. Perform all other duties necessary to carry out this chapter.

SECTION 5. AMENDMENT. Section 54-44.2-02.1 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-44.2-02.1. Improvement of telecommunication systems. The office of central data processing information services division shall plan, coordinate, develop, and implement modern systems of communications. The director of central data processing the division may approve or disapprove the lease, purchase, or other contractual acquisition of telecommunications and transmission facilities equipment by executive branch agencies, except for the institutions and entities under the jurisdiction of the board of higher education, if replacement will improve the effectiveness and efficiency of the state communications system. The institutions and entities under the jurisdiction of the board of higher education together with the office of central data processing division shall make joint use of telecommunications and transmission facilities as will result in less cost to the state.

\* SECTION 6. AMENDMENT. Section 54-44.2-02.2 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-44.2-02.2. Communications advisory committee. A communications advisory committee shall advise and assist the director of the office of central data processing information services division in the execution of the telecommunication systems responsibilities. The committee consists of the attorney general, superintendent of the highway patrol, adjutant general, chief engineer of the public service commission, director of the state radio system, commissioner of higher education, director of the office of management and budget, highway commissioner, registrar of motor vehicles, and representatives from the various law enforcement organizations and any other persons the committee may designate. The director of the office of management and budget, or the director's designee, is the chairman of the committee. The chairman is to call the meetings of the committee.

SECTION 7. A new section to chapter 54-44.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

Capitol telephone exchange. The information services division shall provide a central telephone exchange in the state capitol. State agencies located in the capitol shall use the exchange for all telephone service. A state agency or institution not located in the state capitol may use the exchange if the person in charge of the agency or institution and the director of the information services division determine such usage to be advantageous. The director of the division may adopt rules necessary for the use, management, control, and operation of the exchange.

\* NOTE: Section 54-44.2-02.2 was also amended by section 1 of House Bill No. 1512, chapter 658.

SECTION 8. A new section to chapter 54-44.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

Wide area telephone service. The director of the information services division may contract for wide area telephone service for state agencies and institutions.

SECTION 9. AMENDMENT. Section 54-44.2-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-44.2-04. Appointment of data processing coordinators. Each agency, department, or institution of this state utilizing the services and equipment provided by the office of central data processing information services division shall appoint an electronic data processing coordinator. Such The coordinator shall maintain liaison with the office of central data processing division and assist the office division in such activities as the establishment of priorities, rescheduling, reports, and other areas related to making the most economical use of the data processing services and equipment.

SECTION 10. AMENDMENT. Section 54-44.2-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-44.2-06. Secrecy provision. The personnel of the office of central data processing are hereby authorized to information services division may receive from the various departments, and the employees of the various departments are hereby authorized to may provide to the office of central data processing division, any information from the files and records of the various departments necessary to effect the purposes of this chapter without regard to the confidential or secret nature of the information; provided, however, the personnel of the office of central data processing shall be division are subject to the same restrictions and penalties regarding the dissemination of this information as are the personnel of the department involved.

SECTION 11. AMENDMENT. Section 54-44.2-07 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-44.2-07. Acceptance of federal funds. Funds received by a state agency or institution from the government of the United States for the purpose of matching state funds for the purpose of improving normal or emergency telecommunication systems may be deposited in the central data processing information services operating fund, unless the funds have been specifically appropriated by the legislative assembly for some other purpose or unless transfer would be contrary to the federal regulations governing the grant. The director of the office of central data processing information services division may apply for any public or private grants available for the improvement of telecommunication systems.

SECTION 12. REPEAL. Chapter 48-07 of the 1987 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 22, 1989  
Filed March 23, 1989

## CHAPTER 643

HOUSE BILL NO. 1168  
(Committee on Finance and Taxation)  
(At the request of the Housing Finance Agency)

### HOUSING FINANCE BONDS EXEMPTION

AN ACT to amend and reenact section 54-17-07.7 of the North Dakota Century Code, relating to the change of the reference from the Internal Revenue Code of 1954 to the Internal Revenue Code of 1986 for bonds issued by the North Dakota housing finance agency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-17-07.7 of the 1987 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~~ 1986. 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.

Approved March 9, 1989  
Filed March 9, 1989

## CHAPTER 644

HOUSE BILL NO. 1037  
(Legislative Council)  
(Interim Budget Committee on Government Finance)

### CAPITAL CONSTRUCTION FUND

AN ACT to provide for allocation of a portion of sales, use, and motor vehicle excise tax collections to the capital construction fund to be used for lease payments associated with capital improvement projects financed under chapter 54-17.2 and other capital improvement projects, subject to legislative appropriation; to establish a capital construction account; to authorize the industrial commission, acting as the state building authority, to issue loan notes to make funds available for construction and acquisition projects at institutions of higher education; to provide for a transfer from the general fund to the capital construction fund; to provide an appropriation; to provide legislative intent regarding the retirement of loan notes; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Allocation of sales, use, and motor vehicle excise tax revenues to capital construction fund. Notwithstanding any other provision of law, the state treasurer shall deposit in the capital construction fund a portion of sales, use, and motor vehicle excise tax collections equal to ten percent of an amount, determined by multiplying the quotient of one percent divided by the general sales tax rate that was in effect when the taxes were collected, times the net sales, use, and motor vehicle excise tax collections under chapters 57-39.2, 57-40.2, and 57-40.3. Revenue deposited in the capital construction fund may be used only for lease payments associated with capital improvement projects financed under chapter 54-17.2, and other capital improvement projects, subject to legislative appropriation.

SECTION 2. Capital construction account. The state treasurer shall establish a capital construction fund in the state treasury for the purpose of making lease payments associated with capital construction projects financed by the industrial commission acting as a state building authority.

SECTION 3. GENERAL FUND TRANSFER - APPROPRIATION. The state treasurer shall transfer an amount, not to exceed a total of \$6,545,000, which is hereby appropriated, for the biennium beginning July 1, 1989, and ending June 30, 1991, from the general fund to the capital construction fund. The state treasurer shall make the transfer or transfers as provided in this section at such times as may be requested by the industrial commission acting as a state building authority.

SECTION 4. APPROPRIATION. There is hereby appropriated out of any moneys in the capital construction fund in the state treasury, not otherwise appropriated, the sum of \$6,545,000, or so much thereof as may be necessary, to the industrial commission, acting as a state building authority, for the

purpose of making lease payments during the biennium beginning July 1, 1989, and ending June 30, 1991, on projects authorized by the industrial commission acting as the state building authority.

**SECTION 5. PROJECT AUTHORIZATION - APPROPRIATION.** The industrial commission, acting as the state building authority, shall arrange for the funding of the projects authorized in this section, hereby declared to be in the public interest, through the issuance of loan notes under North Dakota Century Code chapter 54-17.2, during the biennium beginning July 1, 1989, and ending June 30, 1991. The industrial commission may offer loan notes issued under this section for sale only to the Bank of North Dakota at a price that is as representative as possible of the current market interest rates for comparable loan notes purchased by the Bank of North Dakota. The proceeds of the loan notes and other available funds are hereby appropriated during the biennium beginning July 1, 1989, and ending June 30, 1991, for the following projects:

NAME OF AGENCY, DEPARTMENT, OR INSTITUTION	TYPE OF FACILITY	CONSTRUCTION/ ACQUISITION FUNDS
North Dakota state university	Computer technology transfer center	\$ 5,375,000
University of North Dakota	Complete acquisition of united hospital - north unit	1,720,000
	Abbott hall addition	3,300,000
North Dakota state college of science	Agricultural mechanics technology facility	2,916,000
Minot state university	Library facility	7,728,000
Total		\$21,039,000

The industrial commission shall issue loan notes authorized under this section with the condition that lease rental payments need not begin until July 1, 1991. This authority of the industrial commission to issue loan notes ends on June 30, 1991, but the industrial commission may continue to exercise all other powers granted to it under chapter 54-17.2 and this Act and to comply with any covenants entered into before that date.

In addition, the state board of higher education may obtain and utilize federal funds to expand the computer center project to an agriculture technology transfer center at North Dakota state university. There is hereby appropriated to the state board of higher education from any federal or other funds that become available the sum of \$5,375,000, or so much thereof as may be necessary, for the construction of such a facility at North Dakota state university for the biennium beginning July 1, 1989, and ending June 30, 1991.

**SECTION 6. LEGISLATIVE INTENT.** It is the intent of the legislative assembly that up to a total of \$4,400,000 from nongeneral fund sources will become available to assist in the retirement of the loan notes, issued for the project costs associated with construction of the projects authorized by this Act, in the following amounts:

North Dakota state university	Computer technology transfer center	\$1,343,000
North Dakota state college of science	Agricultural mechanics technology facility	300,000
University of North Dakota	Abbott hall addition	825,000
Minot state university	Library facility	1,932,000
Total		\$4,400,000

**SECTION 7. EFFECTIVE DATE.** Section 1 of this Act is effective for sales, use, and motor vehicle excise tax collections from taxable events occurring after June 30, 1991.

Approved April 28, 1989  
Filed April 28, 1989

## CHAPTER 645

SENATE BILL NO. 2218  
(Committee on Natural Resources)  
(At the request of the State Historical Board and the  
North Dakota Geological Survey)

**PALEONTOLOGICAL RESOURCE PROTECTION**

AN ACT to provide for the protection of paleontological resources; to amend and reenact section 55-02-07, subsection 1 of section 55-03-00.1, and sections 55-03-02 and 55-03-07 of the North Dakota Century Code, relating to the protection of paleontological resources; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Definitions. As used in sections 1 through 8 of this Act, unless the context otherwise requires:

1. "Commission" means the North Dakota industrial commission.
2. "Paleontological resource" means any significant remains, trace, or imprint of a plant or animal that has been preserved by natural causes in earth materials and the localities in which they are found.

SECTION 2. Jurisdiction of the commission. The commission, acting through the office of the state geologist, has jurisdiction and authority to enforce the provisions of sections 1 through 8 of this Act. The commission has authority to make such investigations as it deems proper to determine whether facts exist which justify action by the commission. The commission has authority to adopt rules and issue orders to effectuate the provisions of sections 1 through 8 of this Act.

SECTION 3. Permit required. A permit must be obtained by any person, organization, institution, or company engaged on one's own behalf or on behalf of another to:

1. Identify or evaluate paleontological resources to satisfy state or federal requirements; or
2. Investigate, excavate, collect, or otherwise record paleontological resources on land owned by the state or its political subdivisions.

A permit may be issued upon filing of an application that contains information prescribed by the state geologist and upon the applicant's payment to the state geologist of the fee set by the state geologist. The state geologist may waive the fee requirement if the applicant is an instrumentality of the state. A permit may be issued only for the activities and at the locations described in the permit application.

SECTION 4. Permit - Duration - Revocation. A permit issued under sections 1 through 8 of this Act expires on December thirty-first of the year in which it is issued. A permit may be extended upon written request to the state geologist before expiration of the permit and upon payment to the state geologist of the fee set by the state geologist. A permit may be revoked at any time if it appears the permittee secured the permit through false information or that any activities performed by the permittee are being conducted negligently or improperly, or without regard for the careful preservation and conservation of the paleontological resource.

SECTION 5. Coordination of quaternary fossil finds. The state geologist shall notify the superintendent of the state historical board of all quaternary paleontological finds reported to the state geologist which potentially or actually contain cultural resources. The treatment of sites containing both paleontological remains and cultural resources will be handled in a manner jointly agreed upon by the state geologist and the superintendent. The term cultural resources has the same definition as the term is defined in section 55-03-00.1.

SECTION 6. Protection of paleontological specimens and sites. Any paleontological resource found or located upon any land owned by the state or its political subdivisions may not be destroyed, defaced, altered, removed, or otherwise disposed of in any manner without approval of the state geologist. The state geologist shall determine the significance of the paleontological resource to the understanding of the paleontologic and geologic history of North Dakota. It is the responsibility of the state and its political subdivisions to cooperate with the state geologist in identifying and implementing any reasonable alternative to destruction or alteration of any paleontological resource.

SECTION 7. Transfer of paleontological resources. The state geologist may exchange with or transfer to universities, colleges, governmental bodies, and scientific institutions duplicate paleontological resources it holds. The state historical board must receive preference for the receipt of duplicate paleontological resources.

SECTION 8. Violation of sections 1 through 8 of this Act - Penalty. Any person violating any provision of sections 1 through 8 of this Act is guilty of a class B misdemeanor and shall forfeit to the state all paleontological specimens discovered by the violator at that site. Any such violation is considered to have been committed in the county where the exploration, collecting, or excavation for paleontological resources was undertaken.

SECTION 9. AMENDMENT. Section 55-02-07 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-02-07. Protection of prehistoric or historic artifacts or sites. Any historical, or archaeological, or paleontological artifact or site that is found or located upon any land owned by the state of North Dakota or its political subdivisions or otherwise comes into its custody or possession and which is, in the opinion of the superintendent, significant in understanding and interpreting the history and prehistory of the state, shall not be destroyed, defaced, altered, removed, or otherwise disposed of in any manner without the approval of the state historical board. Notification of the superintendent's opinion of significance shall be communicated to the appropriate governing official. The state historical board through the

superintendent shall, within sixty days of written notification to it by the appropriate governing official of the state or political subdivision's desire, need, or intent to destroy, alter, remove, or otherwise dispose of a significant artifact or site, provide said governing official written direction for the care, protection, excavation, storage, destruction, or other disposition of said significant artifact or site. It shall be the responsibility of the state and its political subdivisions to cooperate with the state historical board in identifying and implementing any reasonable alternative to destruction or alteration of any historical, or archaeological, or ~~paleontological~~ artifact or site significant in understanding and interpreting the history and prehistory of the state before the state historical board shall approve such demolition or alteration.

SECTION 10. AMENDMENT. Subsection 1 of section 55-03-00.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "Cultural resources" includes prehistoric or historic archeological sites, burial mounds, and unregistered graves, ~~and paleontological sites and materials.~~

\* SECTION 11. AMENDMENT. Section 55-03-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-03-02. Contents of permit. Any permit issued pursuant to an application made as provided for in sections 55-03-00.1, 55-03-01, 55-03-01.1, 55-03-02, 55-03-03, 55-03-04, and 55-03-05 shall clearly describe the purpose of the permit and shall be in such form as prescribed by the superintendent. No permit shall be granted until the superintendent shall be satisfied that the applicant is professionally qualified to conduct that work for which a permit is required as provided for in sections 55-03-00.1, 55-03-01, 55-03-01.1, 55-03-02, 55-03-03, 55-03-04, and 55-03-05. When the cultural resources are on land owned by an instrumentality of the state of North Dakota, such permit will not be granted until the applicant has agreed to deliver to the superintendent all of the ~~articles, fossil remains, and~~ archaeological, ~~paleontological,~~ or historical materials of a useful nature found and removed from such land. In all cases, a permit shall not be granted until the applicant has agreed to deliver to the superintendent copies of all records and reports as determined by the superintendent to be pertinent to the work performed.

\*\* SECTION 12. AMENDMENT. Section 55-03-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-03-07. Violation of chapter - Penalty. Any person violating any provision of this chapter is guilty of a class B misdemeanor and shall forfeit to the state all archaeological, ~~paleontological,~~ or historical articles and materials discovered by ~~him~~ the violator. Any such violation shall be held to be committed in the county where the exploration or excavation for archaeological, ~~paleontological,~~ or historical material was undertaken.

Approved April 6, 1989  
Filed April 7, 1989

\* NOTE: Section 55-03-02 was also amended by section 3 of House Bill No. 1584, chapter 307.

\*\* NOTE: Section 55-03-07 was also amended by section 6 of House Bill No. 1584, chapter 307.

## CHAPTER 646

SENATE BILL NO. 2261  
(Committee on Natural Resources)  
(At the request of the Office of Management and Budget)

### GEOLOGICAL SURVEY AND STATE GEOLOGIST

AN ACT to provide for a geological survey and a state geologist and their duties and powers; to repeal sections 15-11-08, 15-11-09, 15-11-11, 15-11-11.1, 15-11-12, 15-11-13, 15-11-14, and 15-12-18 of the North Dakota Century Code, relating to the geological survey and the state geologist; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Definitions. As used in this chapter, unless the context otherwise requires:

1. "Commission" means the North Dakota industrial commission.
2. "State geologist" means the North Dakota state geologist.
3. "Survey" means the North Dakota geological survey.

SECTION 2. Survey - Responsibilities. There is created a North Dakota geological survey. The survey has the following responsibilities:

1. Serve as the primary source of geological information in the state.
2. Investigate, describe, and interpret the geological setting of the state with special reference to the economic products, geological hazards, and energy resources of the state's geology.
3. Conduct investigations designed to promote public understanding of the state's natural setting and natural resources.
4. Conduct research relative to the exploration, production, and regulation of oil, gas, coal, and other mineral resources of the state.
5. Conduct investigations and review externally prepared reports pertaining to geological aspects of the health and safety of the citizens and environment of the state.
6. Provide geological information contributing to the development of public health policies and to the use and management of natural resources.
7. Publish bulletins, circulars, maps, and other related materials that make available the results of the geological research and technical studies.

8. Provide educational information about the geology of the state to the public.
9. Operate and maintain a public repository for books, reports, maps, and other publications regarding the geology and mineral resources of the state.
10. Operate and maintain a public repository for fossil and rock specimens, rock cores, well cuttings, and associated data.
11. Provide technical advice and assistance concerning the geology of the state to local, state, and federal governmental agencies and to state educational institutions.
12. Aid in the regulation of the state's natural resources by providing the resource assessment and evaluation information necessary to create and maintain effective regulatory policy.
13. Investigate the kind, amount, and availability of the various mineral substances contained in state owned lands, so as to contribute to the most effective and beneficial administration of these lands for the state.
14. Consider such other scientific and economic questions in the field of geology as in the judgment of the state geologist is deemed of value to the people of the state.
15. Carry out any other responsibilities assigned to it by the legislative assembly.

SECTION 3. Survey - Direction and supervision. The survey is under the direction and control of the commission.

SECTION 4. Survey - Location. The commission shall decide the location of the survey. However, the survey shall maintain a core and sample library at the university of North Dakota with associated core receiving, processing, and analytical equipment. The survey, in cooperation with the university of North Dakota, shall maintain a geologic literature library and archives at the university of North Dakota. The survey may also maintain a working geologic literature library at a site selected by the industrial commission.

SECTION 5. State geologist - Qualifications - Selection - Salary. There is created the position of state geologist.

1. The state geologist's qualifications must include a doctor of philosophy degree in geology from an accredited university or college or equivalent geological experience, demonstrated competency in administration, and five years of practical experience in the field of geology to qualify for direction of the survey.
2. The commission shall appoint the state geologist. Prior to appointment of a state geologist the commission may appoint an acting state geologist.

3. The state geologist is under the direction and control and serves at the pleasure of the commission.
4. The annual salary of the state geologist is set by the commission subject to legislative appropriation.

SECTION 6. State geologist - Authority. The state geologist is the executive and administrative head of the survey and shall exercise the powers of the office and be responsible for the execution of its duties.

SECTION 7. State geologist - Grants, funds, and contracts. The state geologist, with the approval of the commission, may accept and expend money from and enter into contracts with federal, state, local, or other public entities to carry out the purposes of this chapter or to provide geological services. If such funds exceed appropriations made by the legislative assembly, the state geologist shall seek emergency commission approval for their expenditure.

SECTION 8. State geologist - Acquisition of geological and geophysical data - Confidentiality. The state geologist has the authority:

1. To acquire geological and geophysical data including seismic, magnetic, and gravity data by purchase or by acceptance of donated proprietary data.
2. To provide for the confidentiality of geological and geophysical data when requested by the seller or donor until the seller or donor notifies the state geologist that confidentiality is no longer required. Confidential data may be used only by the state geologist and staff members designated by the state geologist.

SECTION 9. State geologist - Specimens collected - Exhibited - Exchanged. The state geologist shall cause proper specimens, skillfully prepared, secured, and labeled, of rocks, minerals, ores, coals, fossils, and other earth materials discovered or examined in the course of the geological surveys to be preserved for public inspection free of cost. The state geologist, when practicable, shall cause duplicate specimens in reasonable numbers and quantities to be collected and preserved for the purpose of exchange with or transfer to universities, colleges, governmental bodies, and scientific institutions.

SECTION 10. State geologist - Purchase and sale of maps - Appropriation. The state geologist is authorized to purchase cartographic products from the federal government for the purpose of reselling the products to the public at a fee set by the state geologist. All moneys collected from the sale of the products must be deposited in the cartographic products fund. This fund must be maintained as a special fund and all moneys transferred into the fund are hereby appropriated and must be used and disbursed solely for the purpose of paying the state geologist's cost of purchasing and reselling the products.

SECTION 11. State geologist - Colleges and universities - Cooperation. The board of higher education and the survey shall develop a cooperative agreement for the sharing of books, equipment, and other physical resources.

SECTION 12. REPEAL. Sections 15-11-08, 15-11-09, 15-11-11, 15-11-11.1, 15-11-12, 15-11-13, 15-11-14, and 15-12-18 of the North Dakota Century Code are hereby repealed.

Approved April 28, 1989  
Filed April 28, 1989

## CHAPTER 647

HOUSE BILL NO. 1650  
(Representatives Graba, Mertens, G. Berg)  
(Senator Stromme)

### SCHOOL FOR THE DEAF LAND SALE

AN ACT to authorize the director of institutions to sell and convey certain land belonging to the school for the deaf to Devils Lake public school district no. 1; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. School for the deaf land sale authorized. The director of institutions is authorized to sell and convey the following property of the school for the deaf to the Devils Lake school district no. 1, described as follows:

A parcel of land located in the southwest quarter of the southwest quarter of section twenty-seven, township one hundred fifty-four north, range sixty-four west of the fifth principal meridian, Ramsey County, state of North Dakota, further described as follows:

Beginning at the southwest corner of the Devils Lake school district property which is located at a point on the section line eight hundred eighty-seven and one-tenth feet northerly of the section corner common to sections twenty-seven, twenty-eight, thirty-three, and thirty-four, thence southerly along said section line a distance of eight hundred eighty-seven and one-tenth feet to the section corner, thence easterly along the section line a distance of one thousand three hundred twenty feet, thence northerly along the quarter-quarterline a distance of eight hundred fifty feet to the south boundary line of the Devils Lake school district property, thence turn a left deflection angle of eighty-eight degrees twenty-three minutes along said south boundary line a distance of one thousand three hundred twenty and five-tenths feet to the point of beginning, less the soo line railroad right of way across the property as shown on the enclosed plat. This tract contains twenty-six and three-tenths acres less two and two-tenths acres for the railroad right of way, more or less. And also includes several lots in the Wineman first addition of the city of Devils Lake located south of the above-noted section twenty-seven in section thirty-four and east of the railroad crossing through both sections in a northwesterly direction and north of fourteenth street west and west of the north-south shelterbelt on the west side of the school for the deaf. The payment for this additional land must be the same as the assessed value of the above-described land to be sold.

This land is to be appraised and its sale shall be negotiated by the director of institutions and sold for not less than the appraised value. The

conveyance must reserve to the state all mineral rights in and under the premises conveyed. The quit claim deed must provide that if the land ever ceases to be used for school purposes the land shall revert to the state of North Dakota upon payment to the school district of the same price for which it was purchased. The deed must provide that the students enrolled at the state school for the deaf are guaranteed use of the facilities placed upon the property by the Devils Lake public school district no. 1 in the proportion that the number of students enrolled at the school for the deaf of North Dakota bears to the total number of students entitled to use the facilities or as agreed to by the officials of the school for the deaf and the school district.

The proceeds from the sale of this land must be deposited in a special fund to be used by the school for the deaf for a special project authorized by the director of institutions and may not be placed into the state's general fund.

The provisions of sections 54-01-05.2 and 54-01-05.5 do not apply to the sale authorized by this section.

SECTION 2. EMERGENCY. This Act is hereby declared to be an emergency measure.

Approved March 22, 1989  
Filed March 23, 1989

## CHAPTER 648

SENATE BILL NO. 2268  
(Senators Olson, Lips, Heinrich)  
(Representatives Martinson, Hoffner)

### BURLEIGH COUNTY FAIRGROUNDS LAND SALE

AN ACT to authorize the director of institutions to sell and convey certain land owned by the state of North Dakota to Burleigh County for use as fairgrounds; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Sale of land - Proceeds. The director of institutions is authorized to sell and convey the following property to Burleigh County, North Dakota:

A tract of land approximately three hundred twelve acres, lying in section one, township one hundred thirty-eight, range eighty west, Burleigh County, North Dakota.

The property must be sold at not less than fair market value, based upon two independent appraisals. The state shall reserve all mineral rights now held by the state in and under the premises. Sections 54-01-05.2, 54-01-05.5, and 54-21-26.1 do not apply to the sale authorized by this Act. The proceeds realized from the sale authorized by this Act must be deposited in the North Dakota state penitentiary land fund. The property sold under the authority of this Act must be used for fairgrounds.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 31, 1989  
Filed March 31, 1989

## CHAPTER 649

HOUSE BILL NO. 1428  
(Marks)

## STATE TREASURER'S NEGOTIABLE INSTRUMENTS

AN ACT to amend and reenact section 54-27-15.1 of the North Dakota Century Code, relating to the cancellation and subsequent repayment of state treasurer's checks, warrants, and warrant-checks; and to repeal sections 54-27-14, 54-27-15, 54-27-15.3, and 54-27-15.4 of the North Dakota Century Code, relating to cancellation and subsequent repayment of certain checks and warrants.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-27-15.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-27-15.1. State treasurer's checks, warrants, and warrant-checks - Cancellation - Deposit to ~~general~~ common schools trust fund - Subsequent payment. The state treasurer, at the beginning of each fiscal year, shall prepare a list of the checks, warrants, and warrant-checks drawn on various depositories which are more than ~~six~~ three years old which remain outstanding and unpaid and shall show the number, date, payee (with address of payee if available), amount, bank on which drawn, and fund against which said check instrument was drawn. A copy of such list shall then be used as an authority for writing a receipt of the total of such check or checks and shall credit such amount to the ~~general fund~~ common schools trust fund pursuant to chapter 47-30.1. One copy of such receipt with list of ~~checks~~ instruments affected shall be provided to the ~~office of management and budget~~ administrator of unclaimed properties. In the event such check, warrant, or warrant-check is at any subsequent time presented for payment, or a claim is made by any person for the amount of any such instrument, further proceedings must be conducted in accordance with chapter 47-30.1.

SECTION 2. REPEAL. Sections 54-27-14, 54-27-15, 54-27-15.3, and 54-27-15.4 of the North Dakota Century Code are hereby repealed.

Approved March 14, 1989  
Filed March 15, 1989

## CHAPTER 650

SENATE BILL NO. 2384  
(Yockim, Mathern, Robinson)

### POLITICAL SUBDIVISION REVENUE DISTRIBUTIONS

AN ACT to amend and reenact sections 54-27-19.1, 57-51-14, subsection 3 of section 57-51-15, sections 57-58-01, 57-60-14, 57-60-15, and subsection 2 of section 57-62-02 of the North Dakota Century Code, relating to distribution of various funds to political subdivisions by the state treasurer.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-27-19.1 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-27-19.1. Township highway aid fund - Distribution. Notwithstanding any other provision of law, one cent per gallon [3.79 liters] of the tax imposed by sections 57-43.1-02 and 57-43.2-02 shall not be refunded and the proceeds shall be distributed as provided in this section. The tax commissioner shall transfer the proceeds of one cent per gallon [3.79 liters] of the tax imposed by sections 57-43.1-02 and 57-43.2-02 to the state treasurer who shall deposit the proceeds in a township highway aid fund in the state treasury. The state treasurer shall no less than quarterly allocate and distribute all moneys in the township highway aid fund to the counties of the state based on the length of township roads in each county compared to the length of all township roads in the state. To receive any funds under this section, organized townships must provide fifty percent matching funds. The county treasurer shall allocate the funds received to the organized townships in the county which provide fifty percent matching funds based on the length of township roads in each such organized township compared to the length of all township roads in the county. The funds received must be deposited in the township road and bridge fund and used for highway and bridge purposes. If a county has no organized townships, or has some organized and some unorganized townships, the county shall retain a pro rata portion of the funds received based on the length of roads in unorganized townships compared to the length of township roads in organized townships in the county. Moneys retained by a county for the benefit of unorganized townships under this section must be deposited in the county road and bridge fund. Moneys retained by the county treasurer due to the failure of organized townships to provide required matching funds must be returned to the state treasurer who shall deposit the funds in the highway tax distribution fund. The board of county commissioners shall certify to the state treasurer any change in township road mileage when a change occurs and shall, by July first of each even-numbered year, certify the total number of township road mileage in each of the county's organized and unorganized townships. The state treasurer shall prescribe the form and manner by which the certification is made.

SECTION 2. AMENDMENT. Section 57-51-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-51-14. Duties of commissioner and state treasurer. It shall be the duty of the commissioner to deposit with the state treasurer all moneys collected by him under this chapter and to accompany each remittance, when possible, with a certificate showing the county where produced. The state treasurer, no less than quarterly, shall pay over to the county treasurers and city auditors of the several counties the moneys to which they are entitled hereunder.

SECTION 3. AMENDMENT. Subsection 3 of section 57-51-15 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Forty-five percent of all revenues as may by the legislative assembly be allocated to any county hereunder must be credited by the county treasurer to the county general fund. Thirty-five percent of all revenues allocated to any county must be apportioned by the county treasurer no less than quarterly to school districts within the county on the average daily attendance distribution basis, as certified to him by the county superintendent of schools. However, no school district may receive in any single academic year an amount under this subsection greater than the county average per-pupil cost multiplied by seventy percent, then multiplied by the number of pupils in average daily attendance or the number of children of school age in the school census for the county whichever is greater. Provided, however, that in any county in which the average daily attendance or the school census, whichever is greater, is fewer than four hundred, the county shall be entitled to one hundred twenty percent of the county average per-pupil cost multiplied by the number of pupils in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Once this level has been reached through distributions under this subsection, all excess funds to which the school district would be entitled as part of its thirty-five percent share must be deposited instead in the county general fund. The county superintendent of schools of each oil-producing county shall certify to the county treasurer by July first of each year the amount to which each school district is limited pursuant to this subsection. As used in this subsection, "average daily attendance" means the average daily attendance for the school year immediately preceding the certification by the county superintendent of schools required by this subsection. Twenty percent of all revenues allocated to any county hereunder must be paid no less than quarterly by the county state treasurer to the incorporated cities of the county based upon the population of each incorporated city according to the last official decennial federal census. However, no city may receive in any fiscal year an amount under this subsection greater than five hundred dollars per capita. Once this level has been reached through distributions under this subsection, all excess funds to which any city would be entitled except for this limitation must be deposited instead in the county that county's general fund. Provided, however, that in determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of determining

the per capita limitation in this section shall be increased by adding to the population of the city as determined by the last official decennial federal census a number to be determined as follows:

- a. Seasonal employees of state and federal tourist facilities within five miles [8.05 kilometers] of the city shall be included by adding the months all such employees were employed during the prior year and dividing by twelve.
- b. Seasonal employees of all private tourist facilities within the city and seasonal employees employed by the city shall be included by adding the months all such employees were employed during the prior year and dividing by twelve.
- c. The number of visitors to the tourist attraction within the city or within five miles [8.05 kilometers] of the city which draws the largest number of visitors annually shall be included by taking the smaller of either of the following:
  - (1) The total number of visitors to that tourist attraction the prior year divided by three hundred sixty-five; or
  - (2) Four hundred twenty.

\* SECTION 4. AMENDMENT. Section 57-58-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-58-01. Distribution to counties and local subdivisions. It is hereby provided that any political subdivision which has an existing bonded indebtedness for which a tax levy must be made in 1970 or any year thereafter, shall reduce its levy in each such year for current operating purposes by the amount which its tax levy on taxable property in that year for retirement of the bonded indebtedness is increased because of the exemption of personal property by subsection 25 of section 57-02-08. On or before February 1, 1971, the county auditor of each county shall certify to the state tax commissioner the total amount of taxes levied in the year 1968 for the state, county, cities, park boards, school districts, airport authorities, townships, and all other units of government having the authority to levy taxes, and levies voted by the people, new or present levies increased by legislative action of such county on those items of personal property exempt under the provisions of section 57-02-08, and, in addition, the total valuation of real estate and taxes levied on real estate for the year 1968. On or before June 1, 1980, and each year thereafter, the state tax commissioner shall certify for payment to the state treasurer an amount, for payment by the state treasurer to each chief county and city fiscal officer, determined to be due such county and city based upon the personal property taxes levied in the year 1968 for the political subdivisions herein mentioned on the items of personal property exempt from the personal property tax under the provisions of section 57-02-08, the per capita school tax under the provisions of former section 57-15-23, and the grain tax under the provisions of former chapter 57-03, together with any adjustments to be made in the manner hereinafter provided. Within sixty days after the receipt of the revenue as provided by this section, the county treasurer shall allocate and remit to the county, ~~cities~~ park boards, school districts, airport authorities, townships, and all other units of government having the authority to levy taxes that amount of revenue which is received

\* NOTE: Section 57-58-01 was also amended by section 2 of House Bill No. 1018, chapter 17.

from the state in the same ratio as he would have distributed the revenue from the personal property tax, adjusting such amount by any increase or decrease in real property taxes as levied by each taxing authority according to the formula hereinafter provided. Any amount that would be apportioned and credited to the retirement of a bonded indebtedness existing in 1970 for which a tax levy was made in 1970 and in any year thereafter, shall be credited to the general fund of the political subdivision. In the years after 1971, payments to the counties under this section shall be made based upon ninety-five percent of such payment for 1971 together with a growth factor which shall be based upon the dollar amount of increase or decrease in real property taxes levied within each county. For each seven dollar increase in real property taxation within a county, the state shall contribute an additional one dollar over that amount which equal ninety-five percent of such payment in the base year. For each seven dollar decrease in real property taxation within a county, the state shall contribute one dollar less than that amount which equals ninety-five percent of such payment in the base year.

On or before June 1, 1980, and each year thereafter, the state tax commissioner shall certify to the state treasurer the amount determined to be due to the state based upon the personal property taxes levied in the year 1968 for the North Dakota state medical center. The amount so certified shall be computed in accordance with the formula provided in this section for computing the amounts to be certified and paid to the counties. The state treasurer upon receiving the certification from the tax commissioner shall transfer from the general fund to the credit of the North Dakota state medical center the amount so certified.

Any political subdivision which levied taxes on taxable property in the year 1970 for a specific fund or purpose for which a levy was not made by it in the year 1968 shall be entitled to a distribution of revenue from the state in the year 1971 for any such levy. The amount of such distribution shall be determined as follows: the county auditor shall certify to the state tax commissioner as soon as possible after March 30, 1971, the amount of each such levy made by and spread for each political subdivision on taxable real property in the county in the year 1970; the tax commissioner shall forthwith determine the correctness of such amounts and certify to the state treasurer for immediate payment to the county and cities an amount that is determined by dividing the total of such levies made and spread in 1970 on taxable real property in the county by the growth factor that is provided in the first paragraph of this section; the county treasurer within fifteen days after the receipt of such revenue from the state treasurer shall allocate and remit to each political subdivision its proportionate amount of that revenue.

If the classification of any property for taxation purposes is changed from real to personal property or from personal to real property because of legislative or judicial action, the county auditor of the county in which the property is located shall forthwith certify to the tax commissioner the amount of real estate taxes or personal property taxes that was levied on all such property by each taxing district in the year 1968 and in any other year thereafter that the tax commissioner may request. The tax commissioner, in determining the amount to be certified to the state treasurer for payment to the county political subdivisions pursuant to this section, shall adjust the amounts of taxes certified by the county auditor as levied on real property and on personal property in 1968 and in any other year as may be necessary by adding to or subtracting from each such amount the taxes on the reclassified property so that the distribution by the state to the county will be

determined as though such property had been taxed in 1968 and all later years in the classification into which it was reclassified.

SECTION 5. AMENDMENT. Section 57-60-14 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-60-14. Allocation of revenue. The state treasurer shall no less than quarterly allocate all moneys received from all coal conversion facilities in each county pursuant to the provisions of this chapter and moneys received for those taxes for which a credit is allowed pursuant to section 57-60-06, notwithstanding the provisions of section 57-33.1-08, thirty-five percent to the county and sixty-five percent to the state general fund, except moneys received from the tax imposed by subsection 3 of section 57-60-02, which must be deposited in the state general fund.

SECTION 6. AMENDMENT. Section 57-60-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-60-15. Duty of county state treasurer - Allocation to political subdivisions. Moneys received by allocated to counties under the provisions of section 57-60-14 shall be apportioned as follows:

1. Thirty percent of all revenues allocated to any county shall be paid by the county state treasurer to the incorporated cities of the county based upon the population of each incorporated city according to the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 in case of a city incorporated subsequent to such census.
2. Forty percent of the revenues allocated to any county shall be deposited by paid to the county treasurer who shall deposit it in the county general fund to be used for general governmental purposes.
3. Thirty percent of all revenues allocated to any county shall be apportioned by the county state treasurer to school districts within the county on the average daily membership basis, as certified to him the state treasurer by the county superintendent of schools.

SECTION 7. AMENDMENT. Subsection 2 of section 57-62-02 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Thirty-five percent shall be allocated to the coal-producing counties and shall be distributed among such counties in such proportion as the number of tons [metric tons] of coal severed at each mining operation bears to the total number of tons [metric tons] of coal severed in the state during such monthly period. Allocations under subdivision subdivisions a shall be apportioned by the county treasurer within fifteen days from the date the moneys are received from the state treasurer and allocations under subdivision and b shall be apportioned by the state treasurer as follows:
  - a. If the tipple of the currently active coal mining operation in a county is not within fifteen miles [24.14 kilometers] of

another county in which no coal is mined, the revenue apportioned according to this subdivision shall be allocated as follows:

- (1) Thirty percent shall be paid by the county state treasurer to the incorporated cities of the county based upon the population of each incorporated city according to the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 in case of a city incorporated subsequent to such census.
  - (2) Forty percent shall be ~~deposited by~~ paid to the county treasurer who shall deposit it in the county general fund to be used for general governmental purposes.
  - (3) Thirty percent shall be apportioned by the county state treasurer to school districts within the county on the average daily membership basis, as certified to the county state treasurer by the county superintendent of schools.
- b. If the tipple of a currently active coal mining operation in a county is within fifteen miles [24.14 kilometers] of another county in which no coal is mined, the revenue apportioned from that coal mining operation according to this subsection shall be allocated, subject to the definitions of terms and the requirements in paragraph 4, as follows:
- (1) Thirty percent shall be paid by the state treasurer to the incorporated cities of the coal-producing county and to any city of a non-coal-producing county when any portion of the city lies within fifteen miles [24.14 kilometers] of the tipple of the currently active coal mining operation in the coal-producing county, based upon the population of each incorporated city according to the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 in case of a city incorporated subsequent to such census.
  - (2) Forty percent shall be divided by the state treasurer between the general fund of the coal-producing county and the general fund of any non-coal-producing county when any portion of the latter county lies within fifteen miles [24.14 kilometers] of the tipple of the currently active coal mining operation in the coal-producing county. The non-coal-producing county portion shall be based upon the ratio which the assessed valuation of all quarter sections of land in that county, any portion of which lies within fifteen miles [24.14 kilometers] of the tipple of the currently active coal mining operation, bears to the combined assessed valuations of all land in the coal-producing county and the quarter sections of land in the non-coal-producing county within fifteen miles [24.14 kilometers] of the tipple of the currently active coal mining operation. The county director of tax equalization of the coal-producing county shall certify to the state treasurer the number of quarter sections of land in the non-coal-producing counties which lie at least in part

within fifteen miles [24.14 kilometers] of the tipple of the currently active coal mining operation and their assessed valuations.

- (3) Thirty percent shall be apportioned by the state treasurer to school districts within the coal-producing county and to school districts in adjoining non-coal-producing counties when a portion of those school districts' land includes any of the quarter sections of land certified by the director of tax equalization to the state treasurer to be eligible to share county funds as provided for in paragraph 2. The county superintendent of the non-coal-producing counties shall certify to the state treasurer the number of students actually residing on these quarter sections lying outside the coal-producing county and each school district in non-coal-producing counties shall receive a portion of the money under this paragraph based upon the ratio of the number of children residing on quarter sections of that school district within the fifteen-mile [24.14-kilometer] radius of the tipple of a currently active coal mining operation to the total number of schoolchildren from the coal-producing county combined with all the schoolchildren certified to be living on quarter sections within fifteen miles [24.14 kilometers] of the tipple of the currently active coal mining operation in the coal-producing county.
- (4) For the purposes of this subdivision:
- (a) The terms "currently active coal mining operation in a county", "currently active coal mining operation in the coal-producing county", and "currently active coal mining operation" mean a coal mining operation that produced more than one hundred fifty thousand tons [136,077.71 metric tons] of coal in a coal-producing county during the prior quarterly period.
- (b) The term "coal-producing county" means a county in which more than one hundred fifty thousand tons [136,077.71 metric tons] of coal were mined in the prior quarterly period.
- (c) The term "another county in which no coal is mined" means a county in which not more than seventy-five thousand tons [68,038.86 metric tons] of coal were mined in the prior quarterly period.
- (d) The terms "non-coal-producing county" and "non-coal-producing counties" mean any county in which not more than seventy-five thousand tons [68,038.86 metric tons] of coal were mined in the prior quarterly period.
- (e) In computing each amount to be paid as provided in paragraph 1, 2, or 3 for coal severance tax revenue from coal mined during a monthly period, the state treasurer shall deduct from the allocation the amount of coal severance tax revenue, if any, that the governmental body in the non-coal-producing county received from the coal mined in the non-coal-producing county during the same monthly period.

## CHAPTER 651

SENATE BILL NO. 2225  
 (Committee on State and Federal Government)  
 (At the request of the Bank of North Dakota)

## STATE BOND PAYMENT, CANCELLATION, OR DESTRUCTION

AN ACT to amend and reenact sections 54-29-01, 54-29-02, and 54-29-03 of the North Dakota Century Code, relating to the payment, cancellation, and destruction of state bonds; and to repeal sections 54-29-04 and 54-29-05 of the North Dakota Century Code, relating to the reissuance of canceled and destroyed bonds and the issuance of coupon bonds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-29-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-29-01. State bonds - Where payable. All state bonds issued under the provisions of this title shall be payable at a place or places specified in the resolution authorizing the same and may be payable at the office of the state treasurer in Bismarck, or at the Bank of North Dakota, or at any suitable bank or trust company in Minneapolis, St. Paul, Chicago, or New York, or at the option of the holder at any one of two or more of such places or other related documents of the industrial commission.

SECTION 2. AMENDMENT. Section 54-29-02 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-29-02. When state bonds may be canceled and destroyed. Any bonds issued by the state and the interest coupons accompanying them, if any, shall be canceled-

- 1- At any time after their maturity and payment;
- 2- If they have become mutilated or defaced in the course of issuing, negotiating, and delivering; or
- 3- If after the expiration of six months from the date of issue, they are and remain unsold; and

destroyed in the presence of the governor, the secretary of state, and the state treasurer, or their designated representatives, if a resolution directing such destruction has been adopted and signed in duplicate by the industrial commission or by a majority of the members thereof. One duplicate of the resolution shall be filed in the office of the commission and the other duplicate in the office of the state treasurer and destroyed according to the provisions of the resolution or other related documents of the industrial commission.

SECTION 3. AMENDMENT. Section 54-29-03 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-29-03. Filing of certificate showing destruction. Within thirty days after the destruction of bonds issued by the state and the coupons accompanying them, if any, there shall be filed in the office of the industrial commission and in the office of the state treasurer, there to be kept on file with the resolution or other related documents to which it refers, a certificate, signed by the governor, the secretary of state, and the state treasurer, or their designated representatives executed by the person or persons responsible for the destruction, showing the destruction of such bonds and coupons, if any, to have been done and performed in accordance with the terms of the resolution or other related documents of the industrial commission.

SECTION 4. REPEAL. Sections 54-29-04 and 54-29-05 of the North Dakota Century Code are hereby repealed.

Approved March 9, 1989

Filed March 9, 1989

## CHAPTER 652

SENATE BILL NO. 2226  
(Committee on Natural Resources)  
(At the request of the Bank of North Dakota)

### STATE TREASURER LAND TRANSACTIONS

AN ACT to create and enact a new section to chapter 54-30 of the North Dakota Century Code, relating to the sale or lease of land acquired by the state treasurer as trustee for the state of North Dakota; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-30 of the North Dakota Century Code is hereby created and enacted to read as follows:

Land acquired by state treasurer - Sale or lease by the Bank of North Dakota or board of university and school lands - Deposit of net proceeds in bond sinking fund. The Bank of North Dakota or the board of university and school lands, as agent of the state treasurer as trustee for the state of North Dakota, shall manage all lands acquired in the name of the state treasurer as trustee for the state of North Dakota under this chapter and, with the approval of the state treasurer, shall have full power to sell or lease such lands. All instruments executed by the bank or board in furtherance of this authority must be executed by an authorized officer or employee of the Bank or board in the name of "The Bank of North Dakota or the board of university and school lands as agent for the state treasurer as trustee for the state of North Dakota". The Bank or board may charge a fee and may be reimbursed for all actual costs incurred in the management and sale of these lands. The net proceeds from the sale or lease of these lands must be deposited in the real estate bond sinking fund established by this chapter. The sale and leasing of these lands must be done in accordance with chapter 15-07. In the case of a lease by the party holding the right of redemption, that party has the right to buy at any time.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 19, 1989  
Filed April 19, 1989

## CHAPTER 653

SENATE BILL NO. 2476  
(Senators Holmberg, Maixner, Maxson)  
(Representatives Wentz, Nelson)

### LEGISLATIVE COUNCIL INTERIM ELECTIONS COMMITTEE AND MAIL BALLOT PRIMARIES

AN ACT to create a legislative council interim committee on elections and provide a mechanism for a mail ballot primary election; to provide an appropriation; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Committee on elections - Members. The legislative council shall appoint a committee on elections. The committee must consist of legislators appointed in the same manner as the council appoints members of other interim committees; the executive director, or a designee, of the North Dakota association of counties; the executive director, or a designee, of the North Dakota league of cities; the president, or a designee, of the county auditors association; and one representative as appointed by the state chairman for each of the two political parties that received the highest number of votes cast for governor at the most recent general election at which a governor was elected. The legislative council shall designate the chairman of the committee. The committee shall operate according to the statutes and procedures governing the operation of other legislative council interim committees.

SECTION 2. Committee on elections - Powers and duties.

1. The committee on elections shall consider all aspects of the election process with emphasis on new voting concepts that would make the process more timely and cost effective.
2. The committee shall solicit proposals from counties that had fewer than two thousand votes cast at the last general election and fewer than one thousand votes cast at each of the last two primary elections which are interested in using mail ballots for the 1990 primary election. In the summer of 1989, the committee shall adopt guidelines a county must use in preparing a proposal for a mail ballot election. The guidelines must require the county to provide for the security and confidentiality of ballots, accessibility for all voters, the opening of one polling place and notice of the location at all other polling places used at the last election, voter registration, and any other criteria the committee considers necessary to ensure a valid mail ballot primary.
3. Counties shall submit their mail ballot proposals to the committee by February 1, 1990. On or before March 15, 1990, the committee may accept the proposals of one or two counties or reject all proposals. The legislative council shall award the amounts the committee determines necessary to conduct a mail ballot election,

within the limits of legislative appropriation, to the counties with proposals approved by the committee.

SECTION 3. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$4,800, or so much thereof as may be necessary, to the legislative council for the purpose of funding mail ballot voting at the 1990 primary election for the biennium beginning July 1, 1989, and ending June 30, 1991.

SECTION 4. EXPIRATION DATE. This Act is effective through June 30, 1991, and after that date is ineffective.

Approved March 28, 1989  
Filed March 28, 1989

## CHAPTER 654

SENATE BILL NO. 2067  
(Legislative Council)  
(Interim Political Subdivisions Committee)

### ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

AN ACT to establish a state advisory commission on intergovernmental relations; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Advisory commission on intergovernmental relations - Membership - Terms - Meetings.

1. The advisory commission on intergovernmental relations consists of eleven members:
  - a. The North Dakota league of cities executive committee shall appoint two members of the commission.
  - b. The North Dakota association of counties executive committee shall appoint two members of the commission.
  - c. The North Dakota township officers association executive board of directors shall appoint one member of the commission.
  - d. The North Dakota recreation and park association executive board shall appoint one member of the commission.
  - e. The governor or the governor's designee is a member of the commission.
  - f. The legislative council shall appoint four members of the legislative assembly as members of the commission.
2. The legislative council shall designate the chairman and vice chairman of the commission.
3. All members of the commission shall serve for a term of two years, beginning July first of each odd-numbered year, and may be reappointed for additional terms.
4. If any member of the commission resigns or ceases to be a member of the class the member represents, that person's membership on the commission ceases immediately and the appropriate appointing authority may appoint a new member for the remainder of the term.
5. The commission shall meet at least semiannually.

SECTION 2. Functions and duties. The advisory commission on intergovernmental relations shall:

1. Serve as a forum for the discussion of resolution of intergovernmental problems.
2. Engage in activities and studies relating to the following subjects:
  - a. Local governmental structure.
  - b. Fiscal and other powers and functions of local governments.
  - c. Relationships between and among local governments and the state or any other government.
  - d. Allocation of state and local resources.
  - e. Interstate issues involving local governments, including cooperation with appropriate authorities of other states.
  - f. Statutory changes required to implement commission recommendations.
3. Present reports and recommended legislative bills to the legislative council for consideration in the same manner as interim legislative council committees.
4. Prepare model ordinances or resolutions for consideration by officials of political subdivisions.

SECTION 3. Staff services. The advisory commission on intergovernmental relations may request provision of appropriate staff services from the legislative council.

SECTION 4. Finances.

1. A member of the advisory commission on intergovernmental relations who is a member of the legislative assembly is entitled to receive, from funds available to the commission, compensation per day for each day spent in attendance at commission meetings in the same amount as provided in section 54-35-10 for members of the legislative council and reimbursement for travel and other necessary expenses incurred in the performance of official duties in the amounts provided by law for other state officers. Members of the advisory commission on intergovernmental relations who are appointed by an organization representing political subdivisions may be reimbursed for attendance at commission meetings by the organization by which they were appointed.
2. The commission may apply for, contract for, receive, and expend for its purposes any appropriation or grant from any public or private source.
3. Political subdivisions of the state may appropriate funds to the commission to share in the cost of its operations.

SECTION 5. Reports. The advisory commission on intergovernmental relations shall report its findings and recommendations and any proposed legislation necessary to implement the recommendations to the legislative council at the time and in the manner reports are made by interim committees of the legislative council. The legislative council may accept, reject, or amend the report of the advisory commission on intergovernmental relations. The legislative council shall include the report, or any portion of it, as accepted, rejected, or amended, in the council's final report. Copies of the report of the advisory commission on intergovernmental relations, as accepted, rejected, or amended by the legislative council, must be available to counties, cities, townships, appropriate state departments and agencies, and the public.

SECTION 6. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$4,700, or so much thereof as may be necessary, to the advisory commission on intergovernmental relations for the purposes of this Act for the biennium beginning July 1, 1989, and ending June 30, 1991.

Approved March 28, 1989  
Filed March 28, 1989

## CHAPTER 655

HOUSE BILL NO. 1545  
(Representatives Whalen, Kingsbury, K. Thompson)  
(Senators David, Olson)

### NORTH DAKOTA PRODUCTS IN CONSTRUCTION

AN ACT to provide certain architects and engineers with information about products manufactured in the state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Certain architects and engineers to be provided product listing of in-state manufacturers.

1. The state or any political subdivision of the state which contracts for the services of a registered architect or engineer pursuant to the requirements of section 18-12-04 or 48-02-02 shall notify the director of the economic development commission, at the time the architect or engineer is retained, of the nature of plans and specifications for the construction or work involved in the project and provide the director with information identifying the architect or engineer. The director of the economic development commission immediately shall send a product listing of manufacturers located in this state to the architect or engineer, describing those manufacturers and their products in the following major industrial groups:
  - a. Lumber and wood products, except furniture;
  - b. Rubber and miscellaneous plastic products;
  - c. Stone, clay, glass, and concrete products;
  - d. Fabricated metal products, machinery, and transportation equipment; and
  - e. Any other major industrial groups that the director determines include manufactured products that may be used in the project.
2. An architect or engineer who receives a product listing under section 1 of this Act, if possible, shall design the project with specifications that are met by listed products manufactured in this state.

Approved March 30, 1989  
Filed March 31, 1989

## CHAPTER 656

SENATE BILL NO. 2034  
(Legislative Council)  
(Interim Budget Committee on Government Finance)

**JOINT COUNTY AND CITY IMPROVEMENT FINANCING**

AN ACT to amend and reenact section 54-40-01 of the North Dakota Century Code, relating to the joint issuance of bonds by counties or cities to finance equipment, roads, bridges, and road and bridge improvements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-40-01 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-40-01. Agreement - Exercise of joint powers - Bonds.

1. Two or more governmental units or municipal corporations having in common any portion of their territory or boundary, by agreement entered into through action of their governing bodies, may jointly or cooperatively exercise their respective separate powers, or any power common to the contracting parties or any similar powers, including those which are the same except for the territorial limits within which they may be exercised for the purpose of acquiring, constructing, and maintaining any building for their joint use. The term "governmental unit" as used in this section includes and means every city, county, town, park district, school district, states and United States governments and departments of each thereof, and all other political subdivisions even though not specifically named or referred to herein.
2. Two or more counties or cities, or any combination of counties or cities, whether or not they have in common any portion of their territory or boundary, by agreement entered into through action of their governing bodies, may jointly or cooperatively exercise their respective separate powers, or any power common to the contracting parties or any similar powers, for the purpose of acquiring equipment or constructing roads, bridges, and road and bridge improvements.
3. Counties or cities, or any combination of counties or cities, may jointly issue bonds in the same manner and for the purposes provided for in chapter 21-03.

Approved March 17, 1989  
Filed March 17, 1989

## CHAPTER 657

HOUSE BILL NO. 1305  
(Graba, Skjerven, Brokaw)

**STATE SURPLUS PROPERTY TRANSFERS**

AN ACT to amend and reenact subsection 2 of section 54-44-04.6 of the North Dakota Century Code, relating to the sale of state surplus property.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 54-44-04.6 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The director of the office of management and budget shall dispose of the state surplus property in the following manner:
  - a. By transferring it to other state departments, institutions, or agencies without cost other than ~~transportation administrative~~ expenses, which ~~shall~~ must be paid by the receiving agency. ~~Provided, when~~ ~~When~~ the state surplus property was originally purchased ~~pursuant to~~ ~~under~~ an appropriation other than from the general fund of the state, the agency receiving that state surplus property shall pay an amount equal to the fair market value of the property. Moneys received ~~pursuant to~~ ~~under~~ this subdivision ~~shall~~ ~~must~~ be deposited in the fund from which the original purchases were made.
  - b. If not disposed of under subdivision a, title to the property must be transferred to political subdivisions without cost, except administrative expenses.
  - c. If not disposed of under subdivision a or b, then by sale on sealed bids or at public auction to the highest and best bid bidder for property valued at more than three thousand dollars, with no money deposit required prior to sale, or by sealed bids, public auction, or negotiation at fair value for property valued at less than three thousand dollars.
  - c-. ~~If not disposed of under subdivision a or b, title to the property shall be transferred to political subdivisions without cost, except transportation expenses.~~

Approved March 14, 1989  
Filed March 15, 1989

## CHAPTER 658

HOUSE BILL NO. 1512  
(Carlson, Ness)

### COMMUNICATIONS ADVISORY COMMITTEE MEMBERS

AN ACT to amend and reenact section 54-44.2-02.2 of the North Dakota Century Code, relating to the membership of the communications advisory committee.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Section 54-44.2-02.2 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-44.2-02.2. Communications advisory committee. A communications advisory committee shall advise and assist the director of the office of central data processing in the execution of the telecommunication systems responsibilities. The committee consists of the ~~attorney general,~~ superintendent of the highway patrol, adjutant general, chief engineer of the public service commission, director of the state radio system, commissioner of higher education, director of the office of management and budget, executive director of the department of human services, highway commissioner, registrar of motor vehicles, and representatives from the various law enforcement organizations and any other persons the committee may designate secretary of the industrial commission. Any member of the committee may designate another individual to represent that member on the committee. The director of the office of management and budget, or the director's designee, is the chairman of the committee. The chairman is to call the meetings of the committee.

Approved March 14, 1989  
Filed March 15, 1989

\* NOTE: Section 54-44.2-02.2 was also amended by section 6 of House Bill No. 1632, chapter 642.

## CHAPTER 659

HOUSE BILL NO. 1035  
(Legislative Council)  
(Interim Budget Committee on Government Administration)

### STATE SALARIES EQUITY

AN ACT to create a pay equity implementation fund; to create and enact a new section to chapter 54-44.3 of the North Dakota Century Code, relating to compensation relationships within the state's classification plan; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-44.3 of the North Dakota Century Code is hereby created and enacted to read as follows:

Compensation relationships - Policy. It is the policy of this state to establish equitable, nondiscriminatory compensation relationships among all positions and classes within the state's classification plan.

SECTION 2. Report to legislative council. The central personnel division periodically shall report its findings and recommendations under this Act to the office of management and budget, which in turn shall report to a legislative council committee designated by the legislative council to receive such reports. The central personnel division shall seek input from public employees and other affected parties in the implementation of the state's pay equity policy.

SECTION 3. Pay equity implementation fund. The office of management and budget shall maintain a pay equity implementation fund consisting of appropriations to the fund by the legislative assembly for the period beginning July 1, 1989, and ending June 30, 1993, for the purpose of establishing equitable compensation relationships among all positions and classes within the state's classification plan. The director of the office of management and budget shall transfer the appropriation authority to the agencies and institutions of state government employing persons eligible to receive equity adjustments.

SECTION 4. EXPIRATION DATE. Sections 2 and 3 of this Act are effective through June 30, 1993, and after that date are ineffective.

Approved April 3, 1989  
Filed April 3, 1989

## CHAPTER 660

HOUSE BILL NO. 1034  
(Legislative Council)  
(Interim Budget Committee on Government Administration)

### STATE SALARIES PLANNING

AN ACT to create and enact four new subsections to section 54-44.3-12 of the North Dakota Century Code, relating to duties of the director of the state's central personnel division; to provide for a uniform classification plan and legislative intent regarding certain adjustments; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Four new subsections to section 54-44.3-12 of the North Dakota Century Code are hereby created and enacted to read as follows:

Recognize knowledge, skills, complexity, accountability, and working condition hazards as compensable factors of the state's classification plan, required in the performance of work for all positions in the state classified service.

Develop guidelines for allowing exceptions to the rules of the classification and compensation plans for use when the market salaries of specific positions are not consistent with the state's compensation policy.

Conduct in-state and out-of-state labor market surveys that are representative of the state's classified service occupations to enable the state to position itself accurately against the market.

Communicate classification and compensation policies to the managers and employees in the state-classified service by providing written information on the state's classification and compensation procedures.

SECTION 2. CLASSIFICATION PLAN - LEGISLATIVE INTENT. As of June 30, 1993, all employees in the state-classified service must be under one classification plan. It is the intent of the legislative assembly that employees entering a new class as a result of pay equity implementation receive pay equity increases to maintain a level in the new class corresponding to the level in the prior class.

SECTION 3. EFFECTIVE DATE. This Act becomes effective on July 1, 1991.

Approved April 3, 1989  
Filed April 3, 1989

## CHAPTER 661

HOUSE BILL NO. 1033  
(Legislative Council)  
(Interim Budget Committee on Government Administration)

### STATE SALARIES PROCEDURE

AN ACT to create and enact two new subsections to section 54-44.3-12 of the North Dakota Century Code, relating to duties of the director of the state's central personnel division with respect to classification, compensation, and salary administration plans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Two new subsections to section 54-44.3-12 of the North Dakota Century Code are hereby created and enacted to read as follows:

Develop procedures that, notwithstanding any other law, must be followed by all state agencies and institutions for employees in the state classified service, to ensure that all salaries are paid in a manner consistent with the state's compensation, classification, and salary administration policies.

Consult with state agencies and institutions in the development of salary administration procedures for employees in the state classified service.

Approved April 3, 1989  
Filed April 3, 1989

## CHAPTER 662

HOUSE BILL NO. 1143  
(Committee on State and Federal Government)  
(At the request of the Public Employees Retirement System)

**PERS ACTUARIES AND COVERAGE**

AN ACT to amend and reenact subsection 9 of section 54-52-01, subsections 4, 6, and 7 of section 54-52-04, and subsection 1 of section 54-52-05 of the North Dakota Century Code, relating to eligibility requirements under the public employees retirement system and the authority of the public employees retirement system board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Subsection 9 of section 54-52-01 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

9. "Permanent employee" means a governmental unit employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed twenty hours or more per week and ~~more than~~ at least five months each year.

SECTION 2. AMENDMENT. Subsections 4, 6, and 7 of section 54-52-04 of the 1987 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

4. The board shall arrange for actuarial and medical advisers for the system. The board shall cause a qualified, competent actuary to be retained on a consulting basis. The actuary shall make ~~a biennial~~ an annual valuation of the liabilities and reserves of the system and a determination of the contributions required by the system to discharge its liabilities and pay the administrative costs under this chapter, and to recommend to the board rates of employer and employee contributions required, based upon the entry age normal cost method, to maintain the system on an actuarial reserve basis; once every ~~even-numbered year~~ five years make a general investigation of the actuarial experience under the system including mortality, retirement, employment turnover, and other items required by the board, and recommend actuarial tables for use in valuations and in calculating actuarial equivalent values based on such investigation; and perform other duties as may be assigned by the board.
6. The board shall select the funding agent or agents and establish an investment agreement contract. The contract must authorize the funding agent or agents to hold and invest moneys for the system. No moneys of the system may be invested by the board. The moneys of the system must be placed for investment only with a firm or

\* NOTE: Section 54-52-01 was also amended by section 1 of Senate Bill No. 2149, chapter 664; section 3 of House Bill No. 1586, chapter 223; and section 1 of Senate Bill No. 2461, chapter 663.

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 must be delivered to the Bank of North Dakota, or its agents. Except for disbursing money for investment to the funding agent or agents or paying prior service benefits, all costs associated with the hiring, performance measurement, or termination of funding agent or agents ~~management fees, performance measurement fees, actuarial consultant fees, auditors fees, or making withdrawal annuity benefit 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.

7. The board shall administer chapters 39-03.1, 54-52.1, and 54-52.2, and may administer other optional employee benefit programs, including a flexible benefits plan, an optional employee short-term disability plan, a long-term care plan, or other optional employee benefit programs as the board deems appropriate.

SECTION 3. AMENDMENT. Subsection 1 of section 54-52-05 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Every eligible permanent state, county, city, or noncertified school district employee concurring in the plan shall so state in writing and all future eligible employees ~~shall be~~ are participating members. ~~An eligible employee shall be a permanent employee whose services are not limited in duration and who is filling an approved and regularly funded position, who is employed by the state, county, city, or school district, has reached age eighteen, and is employed twenty hours or more per week for more than five months each year.~~

Approved March 9, 1989  
Filed March 9, 1989

## CHAPTER 663

SENATE BILL NO. 2461  
(Senators Satrom, Lips, Lodoen)  
(Representative Wentz)

## PERS BOARD MEMBERS

AN ACT to amend and reenact subsection 14 of section 54-52-01 and section 54-52-03 of the North Dakota Century Code, relating to the membership of the public employees retirement board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Subsection 14 of section 54-52-01 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

14. "Retirement board" or "board" means the ~~five~~ seven persons designated by this chapter as the governing authority for the retirement system created.

SECTION 2. AMENDMENT. Section 54-52-03 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-03. Governing authority. A state agency is hereby created to constitute the governing authority of the system to consist of a board of ~~five~~ seven persons known as the retirement board. No more than one member of the board ~~shall~~ may be in the employ of a single department, institution, or agency of the state or in the employ of political subdivisions.

1. One member of the board ~~shall~~ must be appointed by the governor to serve a term of five years. The appointee ~~shall~~ must be a North Dakota citizen who is not a state, or school district employee and who by experience is familiar with money management. The citizen member ~~shall be~~ is chairman of the board.
2. One member of the board ~~shall~~ must be appointed by the attorney general from ~~his~~ the attorney general's legal staff and shall serve a term of five years.
3. The state health officer appointed under section 23-01-05 is a member of the board.
4. Three board members ~~shall~~ must be elected by and from among the active participating members. Employees who have terminated their employment for whatever reason are not eligible to serve as elected members of the board under this subsection. Board members ~~shall~~ must be elected to a five-year term, pursuant to an election called ~~for~~ by the board. Notice of board elections ~~shall~~ must be given to all active participating members. The time spent in performing

\* NOTE: Section 54-52-01 was also amended by section 1 of House Bill No. 1143, chapter 662; section 1 of Senate Bill No. 2149, chapter 664; and section 3 of House Bill No. 1586, chapter 223.

duties as a board member ~~shall~~ may not be charged against any employee's accumulated annual or any other type of leave.

- ~~4-~~ 5. One board member must be elected by and from among those persons who are receiving retirement benefits or who are eligible to receive deferred vested retirement benefits under this chapter. The board shall call the election and must give prior notice of the election to the persons eligible to participate in the election pursuant to this subsection. The board member shall serve a term of five years.
6. The chairman of the board shall receive fifty dollars per day for the actual time devoted by ~~him~~ the chairman to the duties of ~~his~~ the chairman's office and each of the other members of the board shall receive an honorarium of fifty dollars for each month during which the board has been in session. This ~~shall be~~ is in addition to any other pay or allowance due the chairman or a member, plus an allowance for expenses they may incur through service on the board.
- ~~5-~~ 7. A board member shall serve a five-year term and until ~~his~~ the board member's successor qualifies. Each board member ~~shall be~~ is entitled to one vote, and ~~three~~ four of the ~~five~~ seven board members ~~shall~~ constitute a quorum. ~~Three~~ Four votes ~~shall be~~ are necessary for resolution or action by the board at any meeting.
- ~~6-~~ The state auditor, the state health officer, and the commissioner of banking and financial institutions shall be ex officio, nonvoting, and advisory members of the board.

Approved April 13, 1989  
Filed April 13, 1989

## CHAPTER 664

SENATE BILL NO. 2149  
(Committee on State and Federal Government)  
(At the request of the Public Employees Retirement System)

### TEMPORARY EMPLOYEES UNDER PERS

AN ACT to create and enact a new subsection to section 54-52-01, a new section to chapter 54-52, a new subsection to section 54-52.1-01, and a new section to chapter 54-52.1 of the North Dakota Century Code, relating to participation by temporary employees in the public employees retirement system and the uniform group insurance program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. A new subsection to section 54-52-01 of the 1987 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

"Temporary employee" means a governmental unit employee who is not filling an approved and regularly funded position in an eligible governmental unit and whose services may or may not be limited in duration.

SECTION 2. A new section to chapter 54-52 of the North Dakota Century Code is hereby created and enacted to read as follows:

Participation by temporary employees. A temporary employee may elect to participate in the public employees retirement system and receive credit for service after enrollment. The temporary employee shall pay monthly to the fund an amount equal to nine and twelve-hundredths percent times the temporary employee's present monthly salary. An employer may not pay the temporary employee's contributions. A temporary employee may continue to participate as a temporary employee in the public employees retirement system until termination of employment or reclassification of the temporary employee as a permanent employee.

SECTION 3. A new subsection to section 54-52.1-01 of the 1987 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

"Temporary employee" means a governmental unit employee who is not filling an approved and regularly funded position in an eligible governmental unit and whose services may or may not be limited in duration.

SECTION 4. A new section to chapter 54-52.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Participation by temporary employees. A temporary employee may elect to participate in the uniform group insurance program by completing the

\* NOTE: Section 54-52-01 was also amended by section 3 of House Bill No. 1586, chapter 223; section 1 of Senate Bill No. 2461, chapter 663; and section 1 of House Bill No. 1143, chapter 662.

necessary enrollment forms and qualifying under the medical underwriting requirements of the program. The temporary employee shall pay monthly to the board the premiums in effect for the coverage being provided. A department, board, or agency may not make a contribution for this coverage.

Approved March 17, 1989  
Filed March 17, 1989

## CHAPTER 665

HOUSE BILL NO. 1321  
(Graba, Sorensen, Scherber)

## HEALTH DISTRICT EMPLOYEES IN UNIFORM GROUP INSURANCE

AN ACT to amend and reenact sections 54-52-02, 54-52-02.1, subsection 3 of section 54-52.1-01, and section 54-52.1-03.1 of the North Dakota Century Code, relating to participation in the public employees retirement system by a city health department providing health services in a county and city health district and participation by district health units in the uniform group insurance program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Section 54-52-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-02. Formulation of plan - Exclusion of employees covered by plans in existence. All departments, boards, institutions, commissions, or agencies of the state of North Dakota, the Garrison Diversion Conservancy District, district health units, the supreme court, and the district courts, hereinafter referred to as agency, shall participate in a retirement system which will provide for the payment of benefits to state employees or to their beneficiaries thereby enabling the employees to care for themselves and their dependents and which by its provisions will improve state employment, reduce excessive personnel turnover and offer career employment to high-grade men and women. However, a city health department providing health services in a county and city health district formed under section 23-14-01.1 is not required to participate in the public employees retirement system but may participate in the public employees retirement system under section 54-52-02.1. Employees presently covered by a pension plan or retirement plan to which the state is contributing, except social security, ~~shall~~ are not be eligible for duplicate coverage.

SECTION 2. AMENDMENT. Section 54-52-02.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-02.1. County, city, and noncertified school district employees authorized to join public employees retirement system.

1. The boards of county commissioners of the several counties, the governing body of any city, a school district, a city health department providing health services in a county and city health district formed under section 23-14-01.1, or any combination thereof is hereby authorized may, on behalf of its permanent employees, and permanent noncertified employees only in the case of school districts, to enter into agreements with the ~~state~~ retirement board for the purpose of extending the benefits of the public employees retirement system, as provided in this chapter, to ~~such those~~ employees. ~~Such an~~ The agreement may, in accordance

\* NOTE: Section 54-52-02 was also amended by section 4 of House Bill No. 1586, chapter 223.

with this chapter, contain provisions relating to benefits, contributions, effective date, modification, administration, and other appropriate provisions as the retirement board and the board of county commissioners, the governing body of a city, a school district, a city health department, or any combination thereof ~~shall~~ agree upon, but ~~such the~~ agreement ~~shall~~ must provide that:

- 1- a. The county, city, ~~or~~ school district, city health department, or any combination thereof will contribute on behalf of each eligible employee an amount equal to that provided in section 54-52-06.
- 2- b. A portion of the moneys, paid by the counties, cities, ~~or~~ school districts, city health departments, or any combination thereof may be used to pay administrative expenses of the retirement board.

- 2. Notwithstanding any other provision of this chapter, no political subdivision of this state not participating in the public employees retirement system on June 30, 1977, shall thereafter become a participant in the retirement system until an actuarial study is performed under the direction of the board to calculate the cost of that portion of benefits to be paid by the retirement system to the employees of ~~such the~~ political subdivision based on any prior service or on any service after June 30, 1977, and before the date of initial participation in the retirement system, or both; and the political subdivision has adopted a method, approved by the board, to pay the costs determined in this subsection over a period not to exceed twenty-five years from June 30, 1977. No political subdivision may discontinue participation in the fund without first making such payment to the fund as may be necessary for the fund to pay the future benefits of the eligible employees of ~~such the~~ political subdivision as determined on the basis of rules ~~and regulations promulgated~~ adopted by the board.

\* SECTION 3. AMENDMENT. Subsection 3 of section 54-52.1-01 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- 3. "Department, board, or agency" means the departments, boards, agencies, or associations of this state, and includes the state's charitable, penal, and higher educational institutions; the Bank of North Dakota; the state mill and elevator association; and counties, cities, district health units, and school districts participating under chapter 54-52.

\*\* SECTION 4. AMENDMENT. Section 54-52.1-03.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52.1-03.1. ~~County, city, noncertified school district employees and employees of any combination thereof~~ Certain political subdivisions authorized to join uniform group insurance program - Employer contribution. The board of county commissioners of any county, the governing body of any city or school district, a district health unit, or any combination thereof, which has elected to participate in the North Dakota public employees retirement system, ~~is hereby authorized~~ may on behalf of its permanent employees, and permanent noncertified employees only in the case of school

\* NOTE: Section 54-52.1-01 was also amended by section 1 of Senate Bill No. 2148, chapter 673.

\*\* NOTE: Section 54-52.1-03.1 was also amended by section 2 of Senate Bill No. 2148, chapter 673.

districts, ~~to~~ extend the benefits of the uniform group insurance program, as provided in this chapter, to ~~such~~ those employees. The boards of county commissioners of participating counties and the governing bodies of participating cities, or school districts, district health units, or any combinations thereof may determine the amount of the governing bodies' employer's monthly contribution ~~towards~~ toward the total monthly premium amount required of each eligible participating employee.

Approved April 7, 1989  
Filed April 7, 1989

## CHAPTER 666

HOUSE BILL NO. 1092  
(Committee on State and Federal Government)  
(At the request of the Public Employees Retirement System)

**PERS BENEFITS VESTING**

AN ACT to amend and reenact section 54-52-02.6 and subdivision c of subsection 3 and subdivision d of subsection 4 and subsections 5 and 6 of section 54-52-17 of the North Dakota Century Code, relating to vesting of benefits under the public employees retirement system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-52-02.6 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-02.6. Repurchase of past service upon reemployment. An individual ~~with at least eight years of service~~ who terminates participation in the plan may elect to receive a refund of contributions and thus forfeit all rights to plan benefits ~~and all rights to repurchase for retirement purposes that service.~~ An individual ~~who terminates with less than eight years of service~~ may, upon within one hundred eighty days of reemployment, elect to repurchase the forfeited past service in accordance with rules established by the board.

\* SECTION 2. AMENDMENT. Subdivision c of subsection 3 of section 54-52-17 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- c. Early retirement date is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed ~~eight~~ five years of eligible employment.

\* SECTION 3. AMENDMENT. Subdivision d of subsection 4 of section 54-52-17 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- d. Early retirement benefits ~~shall~~ must be calculated as for normal retirement benefits accrued to the date of termination of employment, but ~~shall~~ must be actuarially reduced to account for benefit payments beginning prior to the normal retirement date. A retiree is eligible for early retirement benefits only after having completed ~~eight~~ five years of eligible employment.

\* SECTION 4. AMENDMENT. Subsections 5 and 6 of section 54-52-17 of the 1987 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

- \* NOTE: Section 54-52-17 was also amended by sections 1 and 2 of House Bill No. 1227, chapter 668; section 6 of House Bill No. 1586, chapter 223; section 61 of Senate Bill No. 2056, chapter 69; section 1 of Senate Bill No. 2112, chapter 669; and section 1 of Senate Bill No. 2135, chapter 670.

5. Upon termination of employment after completing ~~eight~~ five years of eligible employment but before normal retirement date, a member who does not elect to receive early retirement benefits is eligible to receive deferred vested retirement benefits payable commencing on the member's normal retirement date equal to one hundred percent of the member's accrued normal retirement benefits.
6. If before retiring a member dies after completing ~~eight~~ five years of eligible employment, 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.
  - c. Payment of a monthly retirement benefit equal to fifty percent of the deceased member's accrued normal retirement benefits until the spouse dies.

Approved March 9, 1989  
Filed March 9, 1989

## CHAPTER 667

SENATE BILL NO. 2030  
(Committee on State and Federal Government)  
(At the request of the Office of Management and Budget)

## STATE RETIREMENT AND INVESTMENT OFFICE

AN ACT to create and enact a new chapter to title 54 and a new section to chapter 54-52 of the North Dakota Century Code, relating to the establishment of the North Dakota state retirement and investment office and the investment of the public employees retirement system fund; to amend and reenact sections 15-39.1-06, 15-39.1-26, 21-10-01, 21-10-02, 21-10-02.1, 21-10-06, 21-10-06.2, 21-10-07, 21-10-09, and 54-52-04 of the North Dakota Century Code, relating to the teachers' fund for retirement, state investment board, and public employees retirement system; to repeal sections 21-10-10 and 54-52-25 of the North Dakota Century Code, relating to the state investment board and public employees retirement system; to provide for a legislative council study; to provide an appropriation; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

North Dakota state retirement and investment office. A state agency is hereby created to coordinate the activities of the state investment board and teachers' fund for retirement, and must be known as the state retirement and investment office.

Governing authority. The state retirement and investment office is governed by an administrative board that consists of the governor or designee of the governor, state treasurer, and the president of the board of trustees of the teachers' fund for retirement. The administrative board is responsible for overseeing and operating the agency and may do all things necessary to coordinate the activities of the state investment board and the teachers' fund for retirement. The teachers' fund for retirement board and the state investment board shall maintain their legal identities and authority as otherwise provided by law.

State retirement and investment fund - Cost of operation of agency. A special fund known as the "state retirement and investment fund" must be established for the purpose of defraying administrative expenses of the state retirement and investment office. The actual amount of administrative expenses incurred by the state retirement and investment office must be paid from the respective funds listed under section 21-10-06 and are hereby appropriated to the state retirement and investment fund in proportion to the services rendered for each fund as estimated by the administrative board. The amount necessary to pay all administrative expenses of the state retirement and investment office must be paid from the state retirement and

investment fund in accordance with the agency's appropriation authority. Any interest income earned on the state retirement and investment fund must be credited to the fund.

SECTION 2. AMENDMENT. Section 15-39.1-06 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-06. Organization of board. The board may hold meetings as necessary for the transaction of business and a meeting may be called by the president or any two members of the board upon reasonable notice to the other members of the board. The president for the ensuing year must be elected at the first meeting following July first of each year. The board may employ an administrator, who need not be a member of the board and who shall perform duties as the board prescribes.

SECTION 3. AMENDMENT. Section 15-39.1-26 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-26. Investment of moneys in fund. Investment of the fund shall be under the supervision of the state investment board in accordance with chapter 21-10. Such moneys must 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. Such moneys may be expended by the state investment board by the preparation of an appropriate voucher and submitting such voucher to the office of management and budget, except that any related investment counseling fees, trustee fees, or custodial fees charged by money management firms must be paid out of moneys in the fund without the need for a prior appropriation or the submission of a voucher. Investment costs may be paid directly from the fund, and are hereby appropriated for that purpose, in accordance with section 21-10-06.2.

SECTION 4. AMENDMENT. Section 21-10-01 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-10-01. State investment board - Membership - Term - Compensation. The North Dakota state investment board consists of the governor, the state treasurer, the commissioner of university and school lands, the chairperson of the workers compensation bureau, the commissioner of insurance, the executive secretary three members of the teachers' fund for retirement board or the board's designees who need not be members of the fund as selected by that board, and three of the elected members who are experienced in, and have considerable knowledge of the public employees retirement system board as selected by that board. The state investment board may establish an advisory council comprised of individuals who are experienced and knowledgeable in the field of investments, and who are not otherwise employed by the state of North Dakota. The governor shall appoint the members with investment experience to three year, two year, and one year terms respectively on January 31, 1989. Thereafter, the appointed members shall serve four year terms. The appointed members. The state investment board shall determine the responsibilities of the advisory council. Members of the advisory council are entitled to receive the same compensation per day as provided in section 54-35-10 for members of the legislative council the members of the advisory board of the Bank of North Dakota and necessary mileage and travel expenses as provided in sections 54-06-09 and 44-08-04.

SECTION 5. AMENDMENT. Section 21-10-02 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-10-02. Board - Powers and duties. The board shall be charged with the investment of the funds enumerated in section 21-10-06. It shall approve general types of securities for investment by these funds and set policies and procedures regulating securities transactions on behalf of the various funds. Representatives of the funds enumerated in section 21-10-06 may make recommendations to the board in regard to investments. The board or its designated agents shall be custodian of securities purchased on behalf of funds under the management of the board. The board may appoint an investment director or advisory service who must be experienced in, and hold considerable knowledge of, the field of investments. The investment director or advisory service shall serve at the pleasure of the board. The investment director or advisory service may be an individual, corporation, partnership, or any legal entity which meets the qualifications established herein. ~~The board may appoint, in addition to an investment director or advisory service, such personnel as it deems necessary to properly fulfill their responsibility.~~ Existing department facilities for making traditional investments within the state shall continue to function subject however to supervision and management of the board. The board may authorize the investment director to lend securities held by the funds. These securities must be collateralized as directed by the board.

SECTION 6. AMENDMENT. Section 21-10-02.1 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-10-02.1. Board - Policies - Investment goals and objectives. The board shall establish policies on investment goals and objectives for the funds enumerated in section 21-10-06. The policies must provide for:

1. The definition and assignment of duties and responsibilities to advisory services and persons employed by the board.
2. Acceptable rates ~~or~~ of return, liquidity, and levels of risk.
3. Long-range asset allocation goals.
4. Guidelines for the selection and redemption of investments.
5. Investment diversification, investment quality, qualification of advisory services, and amounts to be invested by advisory services.
6. The type of reports and procedures to be used in evaluating performance.

Each fund enumerated in section 21-10-06 shall submit to the board the fund's policies on investment goals and objectives. The state investment board shall develop an asset allocation plan for each fund in accordance with the investment goals and objectives of the fund, subject to the approval of the governing body of the fund.

SECTION 7. AMENDMENT. Section 21-10-06 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-10-06. Funds under management of board - Accounts. The board is charged with the investment of the following funds:

1. State bonding fund.
2. Teachers' fund for retirement.
3. State fire and tornado fund.
4. ~~Workmen's~~ Workers' compensation fund.
5. Veterans' home improvement fund, in accordance with section 37-15-14.1.
6. ~~National guard training area and facility development trust fund.~~
7. ~~National guard tuition trust fund.~~
7. Public employees retirement system.
8. Insurance regulatory trust fund.

Separate accounting must be maintained for each of the above funds when When it is deemed advantageous in the purchase, sale, or exchange of securities, securities belonging to one or more of the funds or the Bank of North Dakota may be purchased, sold, or exchanged as part of a single transaction. In the event of such sale, the respective funds must immediately be credited with their proportionate share of the proceeds. In the event of such purchase or exchange, title to or credit for the securities shall be taken in the name of the individual funds, proportionate to their share of the total purchase price.

The board of university and school lands shall consult with the state investment board or the director thereof on investment policies; and the board of university and school lands may delegate authority to the state investment board or the investment director to make such purchases, sales, or exchanges on its behalf the moneys of the individual funds may be commingled for investment purposes.

The state investment board may provide investment services to, and manage the money of, any agency, institution, or political subdivision of the state, subject to agreement with the industrial commission. The scope of services to be provided by the state investment board to the agency, institution, or political subdivision must be specified in a written contract. The state investment board is authorized to charge a fee for providing investment services and any revenue collected must be deposited in the state retirement and investment fund.

SECTION 8. AMENDMENT. Section 21-10-06.2 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-10-06.2. Investment costs. ~~Investment~~ The amounts necessary to pay for investment costs, such as investment counseling fees, trustee fees, custodial fees, performance measurement fees, expenses associated with money manager searches, expenses associated with onsite audits and reviews of investment managers, and asset allocation expenses, charged by money

management firms or investment consultants under contract with incurred by the state investment board are hereby appropriated and must be paid directly out of the funds listed in section 21-10-06 by the fund incurring the expense.

SECTION 9. AMENDMENT. Section 21-10-07 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-10-07. Legal investments. The state investment board shall apply the prudent investor rule in investing for funds under its supervision. The "prudent investor rule" means that in making investments the fiduciaries shall exercise the judgment and care, under the circumstances then prevailing, that an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it, not in regard to speculation but in regard to the permanent disposition of funds, considering probable safety of capital as well as probable income. The retirement funds belonging to the teachers' fund for retirement and the public employees retirement system must be invested exclusively for the benefit of their members and in accordance with the respective funds' investment goals and objectives.

SECTION 10. AMENDMENT. Section 21-10-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-10-09. Personal profit prohibited - Penalty. No member, officer, agent, or employee of the state investment board shall ~~accept any gift, commission, or compensation other than that authorized by this chapter, for services performed under the provisions of this chapter, nor profit in any manner from transactions on behalf of the funds.~~ Any person violating any of the provisions of this section shall be guilty of a class A misdemeanor.

SECTION 11. AMENDMENT. Section 54-52-04 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-04. Board authority.

1. The board shall adopt rules necessary to implement this chapter, and to manage the system, subject to the limitations of this chapter. The board has the powers and privileges of a corporation, including the right to sue and be sued in its own name as the board. The venue of all actions in which the board is a party must be Burleigh County, North Dakota.
2. The board shall appoint an executive director to serve at its discretion. The executive director shall be bonded by the state bonding fund in the amount required by the board and shall perform such duties as assigned by the board.
3. The board shall authorize the creation of whatever staff it deems necessary for sound and economical administration of the system. The executive director shall hire the staff, subject to the approval of the board.
4. The board shall arrange for actuarial and medical advisers for the system. The board shall cause a qualified, competent actuary to be retained on a consulting basis. The actuary shall make a biennial valuation of the liabilities and reserves of the system and a

determination of the contributions required by the system to discharge its liabilities and pay the administrative costs under this chapter, and to recommend to the board rates of employer and employee contributions required, based upon the entry age normal cost method, to maintain the system on an actuarial reserve basis; once every even-numbered year make a general investigation of the actuarial experience under the system including mortality, retirement, employment turnover, and other items required by the board, and recommend actuarial tables for use in valuations and in calculating actuarial equivalent values based on such investigation; and perform other duties as may be assigned by the board.

5. The state shall provide the board with the retirement systems office or offices to be used for the meetings of the board and for the general purposes of the administrative personnel.
6. The board shall select the funding agent or agents and establish an investment agreement contract. The contract must authorize the funding agent or agents to hold and invest moneys for the system. No moneys of the system may be invested by the board. The moneys of the system must 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 must be delivered to the Bank of North Dakota, or its agents. Except for disbursing money for investment to the funding agent or agents or funds necessary for paying prior service benefits, funding agent or agents management fees, performance measurement fees, actuarial consultant fees, auditors fees, or and 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 are hereby appropriated from the retirement fund for those purposes. The amount necessary to pay the consulting fees related to the uniform group insurance program is hereby appropriated from the insurance premiums received by the board.
7. The board shall administer chapters 39-03.1, 54-52.1, and 54-52.2.
8. The board annually shall report in accordance with section 21-10-06.1 the investment performance of the funds that it administers fund and distribute a copy to each participant.

SECTION 12. A new section to chapter 54-52 of the North Dakota Century Code is hereby created and enacted to read as follows:

Investment of moneys in fund. Investment of the fund is under the supervision of the state investment board in accordance with chapter 21-10. Such moneys must be placed for investment only with a firm or firms whose endeavor is money management, and only after a trust agreement or contract has been executed. Investment costs may be paid directly from the fund, and are hereby appropriated for that purpose, in accordance with section 21-10-06.2.

SECTION 13. REPEAL. Section 54-52-25 of the North Dakota Century Code and section 21-10-10 of the 1987 Supplement to the North Dakota Century Code are hereby repealed.

SECTION 14. LEGISLATIVE COUNCIL STUDY. The legislative council shall direct the committee on public employees retirement programs to study the feasibility and desirability of various options relating to the consolidation of various organizational and investment functions of the public employees retirement system, teachers' fund for retirement, and state investment board. The committee shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-second legislative assembly.

SECTION 15. EXPIRATION DATE. This Act is effective through June 30, 1991, and after that date is ineffective.

Approved April 19, 1989  
Filed April 19, 1989

## CHAPTER 668

HOUSE BILL NO. 1227  
(Representatives Martinson, A. Hausauer, L. Hanson)  
(Senators Olson, Satrom)

**PERS POSTRETIREMENT ADJUSTMENTS**

AN ACT to create and enact a new section to chapter 54-52 of the North Dakota Century Code, relating to postretirement adjustments under the public employees retirement system; to amend and reenact subsection 2 and paragraphs 1, 2, and 3 of subdivision a of subsection 4 of section 54-52-17 of the North Dakota Century Code, relating to computation of benefits under the public employees retirement system; and to provide for application of this Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Subsection 2 of section 54-52-17 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Retirement benefits ~~shall be~~ are calculated from the participating member's final average salary, which is the average of the highest salary received by the member for any ~~sixty consecutive~~ thirty-six months employed during the last one hundred twenty months of employment. Months not employed ~~or months where employment was not full time~~ shall be are excluded in arriving at the ~~sixty thirty-six~~ sixty thirty-six months to be used for the purpose of computing an average. If the participating member has worked for less than ~~sixty thirty-six~~ sixty thirty-six months at the normal retirement date, the final average salary ~~shall be~~ is the average salary for the total months of employment.

\* SECTION 2. AMENDMENT. Paragraphs 1, 2, and 3 of subdivision a of subsection 4 of section 54-52-17 of the 1987 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

- (1) Service benefit equals one and ~~one-half~~ sixty-five hundredths percent of final average salary multiplied by the number of years of service employment.
- (2) Prior service benefit equals one and ~~one-half~~ sixty-five hundredths percent of final average salary multiplied by the number of years of prior service employment.
- (3) All participants who retired before July 1, ~~1987~~ 1989, are entitled to benefits calculated at one and ~~one-half~~ sixty-five hundredths percent of final average salary, multiplied by the number of years of service employment, with the increased benefits payable beginning July 1, ~~1987~~ 1989.

\* NOTE: Section 54-52-17 was also amended by sections 2, 3, and 4 of House Bill No. 1092, chapter 666; section 6 of House Bill No. 1586, chapter 223; section 61 of Senate Bill No. 2056, chapter 69; section 1 of Senate Bill No. 2112, chapter 669; and section 1 of Senate Bill No. 2135, chapter 670.

SECTION 3. A new section to chapter 54-52 of the North Dakota Century Code is hereby created and enacted to read as follows:

Postretirement adjustments. An individual who, on June 30, 1989, is receiving retirement benefits under this chapter is entitled to receive an increase in benefits equal to five and seventy-six hundredths percent of the individual's present benefits.

SECTION 4. APPLICATION OF ACT. Section 3 of this Act applies to benefits payable after June 30, 1989.

Approved March 14, 1989  
Filed March 15, 1989

## CHAPTER 669

SENATE BILL NO. 2112  
(Committee on State and Federal Government)  
(At the request of the Public Employees Retirement System)

**PERS DISABILITY BENEFIT ELIGIBILITY**

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Subdivision d of subsection 3 of section 54-52-17 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

d. Disability retirement date is the first day of the month after a member becomes permanently and totally disabled, according to medical evidence called for under the rules and regulations of the board, and has completed at least one hundred eighty days of eligible employment. No A member shall be is eligible for to receive disability retirement benefits resulting from a disability unless he shall also be only if the member:

- (1) Became disabled during the period of eligible employment;
- (2) Is determined eligible for benefits under the Social Security Act as amended; and
- (3) Applies for disability retirement benefits within twelve months of the date the member terminates employment.

Approved March 17, 1989  
Filed March 17, 1989

\* NOTE: Section 54-52-17 was also amended by sections 2, 3, and 4 of House Bill No. 1092, chapter 666; sections 1 and 2 of House Bill No. 1227, chapter 668; section 6 of House Bill No. 1586, chapter 223; section 61 of Senate Bill No. 2056, chapter 69; and section 1 of Senate Bill No. 2135, chapter 670.

## CHAPTER 670

SENATE BILL NO. 2135  
(Committee on Industry, Business and Labor)  
(At the request of the Public Employees Retirement System)

### **DISABILITY BENEFITS COMPUTATION**

AN ACT to amend and reenact subdivision e of subsection 4 of section 54-52-17 of the North Dakota Century Code, relating to computation of disability benefits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Subdivision e of subsection 4 of section 54-52-17 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- e. Disability retirement benefits ~~shall be calculated at sixty~~ are seventy percent of the member's final average salary, reduced by the member's primary benefits under the Social Security Act as amended, and by any ~~workmen's~~ worker's compensation benefits paid. The minimum monthly disability retirement benefit under this section is one hundred dollars.

Approved April 12, 1989  
Filed April 13, 1989

- \* NOTE: Section 54-52-17 was also amended by sections 2, 3, and 4 of House Bill No. 1092, chapter 666; sections 1 and 2 of House Bill No. 1227, chapter 668; section 6 of House Bill No. 1586, chapter 223; section 61 of Senate Bill No. 2056, chapter 69; and section 1 of Senate Bill No. 2112, chapter 669.

## CHAPTER 671

SENATE BILL NO. 2127  
(Committee on State and Federal Government)  
(At the request of the Public Employees Retirement System)

## HIGHER EDUCATION RETIREMENT PRIOR SERVICE CREDIT

AN ACT to amend and reenact subsections 1 and 3 of section 54-52-17.2 of the North Dakota Century Code, relating to eligibility for accrual of benefits between retirement systems and purchase of prior service credit for members of certain public retirement systems.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Subsections 1 and 3 of section 54-52-17.2 of the 1987 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. a. For the purpose of determining eligibility for benefits under this chapter, an employee's years of service employment is the total of the years of service employment earned in the public employees retirement system and the years of service credit earned in any number of the following:
  - (1) The teachers' fund for retirement.
  - (2) The highway patrolmen's retirement system.
  - (3) The teachers' insurance and annuity association of America - college retirement equities fund (TIAA - CREF), for service credit earned while employed by North Dakota institutions of higher education.
- b. If an employee terminates eligible employment under the system, if that employee has not received a refund of the employee's account balance, and if the employee begins eligible employment in a plan described in paragraph 1 or, 2, or 3 of subdivision a, that employee may elect to remain an inactive member of the system without refund of the employee's account balance. The election must be made within ninety days after beginning the eligible employment or by October 1, 1987, whichever is later. The board shall terminate the inactive status of an employee under this subdivision if the employee gains eligible employment under this chapter or if the employee terminates eligible employment under a plan described in paragraph 1 or, 2, or 3 of subdivision a.
- c. An employee who has service credit in the system and in any number of the plans described in paragraphs 1 and, 2, and 3 of subdivision a is entitled to benefits under this chapter calculated by using the certified salaries of the retirement

\* NOTE: Section 54-52-17.2 was also amended by section 7 of House Bill No. 1586, chapter 223.

plan of last membership. The board shall calculate benefits for an employee under this subsection by using only those years of service employment earned under this chapter.

3. Under rules adopted by the board, an individual whose service credit was canceled when that individual received a refund of assessments at termination of employment under this chapter may, while that individual participates in a plan described in paragraph 1 ~~or~~, 2, or 3 of subdivision a of subsection 1, repurchase that service credit that was canceled.

Approved March 17, 1989  
Filed March 17, 1989

## CHAPTER 672

HOUSE BILL NO. 1093  
(Committee on State and Federal Government)  
(At the request of the Public Employees Retirement System)

### PERS ADDITIONAL CREDIT PURCHASE

AN ACT to create and enact a new section to chapter 54-52 of the North Dakota Century Code, relating to the purchase of additional credit under the public employees retirement system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-52 of the North Dakota Century Code is hereby created and enacted to read as follows:

Purchase of additional credit.

1. A participating member may elect to purchase credit, within one hundred eighty days of beginning eligible employment or by December 31, 1989, whichever is later, for years of service and prior service for which the participating member is not presently receiving credit. A member is entitled to purchase additional credit under this section for the following service or prior service:
  - a. Active employment in the armed forces of the United States for up to four years of credit.
  - b. Employment as a permanent employee by a governmental unit that does not participate in the public employees retirement system under this chapter.
  - c. Employment as a permanent employee by a political subdivision participating in the public employees retirement system which did not pay the cost of past service benefits under section 54-52-02.1.
  - d. Service the participating member did not elect to repurchase upon reemployment under section 54-52-02.6.
  - e. Service of an eligible employee, who exercised the privilege to withdraw from the predecessor plan to the public employees retirement system under subsection 10 of section 54-52-17 as created by section 13 of chapter 499 of the 1977 Session Laws, from July 1, 1977, to the date the eligible employee became a participating member of the public employees retirement system. However, participating members who were eligible, under section 54-52-19.2, to repurchase prior service credit forfeited by withdrawal from the predecessor plan to the public employees

retirement system are not eligible to purchase that prior service credit under this section.

2. The participating member may purchase credit under this section by paying to the board an amount equal to nine and twelve-hundredths percent, times the participating member's monthly salary on the date of the participating member's election to purchase, times the number of months of credit being purchased, plus interest at a rate determined by rules established by the board.

Approved March 9, 1989  
Filed March 9, 1989

## CHAPTER 673

SENATE BILL NO. 2148  
(Committee on Political Subdivisions)  
(At the request of the Public Employees Retirement System)

## POLITICAL SUBDIVISIONS' EMPLOYEES IN UNIFORM GROUP INSURANCE

AN ACT to amend and reenact subsection 3 of section 54-52.1-01 and section 54-52.1-03.1 of the North Dakota Century Code, relating to participation by political subdivisions in the uniform group insurance program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Subsection 3 of section 54-52.1-01 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. "Department, board, or agency" means the departments, boards, agencies, or associations of this state, and includes the state's charitable, penal, and higher educational institutions; the Bank of North Dakota; the state mill and elevator association; and counties, cities, and school districts ~~participating under chapter 54-52.~~

\*\* SECTION 2. AMENDMENT. Section 54-52.1-03.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52.1-03.1. County, city, ~~noncertified and school district employees and employees of any combination thereof~~ authorized to join uniform group insurance program - Employer contribution. The board of county commissioners of any county, the governing body of any city or school district, or any combination thereof, ~~which has elected to participate in the North Dakota public employees retirement system;~~ is hereby authorized on behalf of its permanent employees, and permanent noncertified employees only in the case of school districts, to may extend the benefits of the uniform group insurance program, ~~as provided in under this chapter, to such its permanent employees,~~ subject to a minimum period of participation of twenty-four months. ~~If the board of county commissioners of a participating county or the governing body of any participating city, school district, or any combination thereof, withdraws from participation in the uniform group insurance program, that entity may not subsequently renew participation for a period of at least twenty-four months from the date of withdrawal.~~ The boards of county commissioners of participating counties and the governing bodies of participating cities, school districts, or any combinations thereof may determine the amount of the governing bodies' monthly contribution towards the total monthly premium amount required of each eligible participating employee.

Approved March 14, 1989  
Filed March 15, 1989

\* NOTE: Section 54-52.1-01 was also amended by section 3 of House Bill No. 1321, chapter 665.

\*\* NOTE: Section 54-52.1-03.1 was also amended by section 4 of House Bill No. 1321, chapter 665.

## CHAPTER 674

HOUSE BILL NO. 1156  
(Committee on State and Federal Government)  
(At the request of the Public Employees Retirement System)

**UNIFORM GROUP INSURANCE ELIGIBLE EMPLOYEE**

AN ACT to amend and reenact subsection 4 of section 54-52.1-01 of the North Dakota Century Code, relating to the definition of an eligible employee under the uniform group insurance program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Subsection 4 of section 54-52.1-01 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. "Eligible employee" means every permanent employee who is employed by a governmental unit, as that term is defined in section 54-52-01. "Eligible employee" includes members of the legislative assembly, judges of the supreme court, paid members of state or political subdivision boards, commissions, or associations, full-time employees of political subdivisions, elective state officers as defined by subsection 2 of section 54-06-01, and disabled permanent employees who are receiving compensation from the North Dakota ~~workmen's~~ workers' compensation fund. As used in this subsection, "permanent employee" means one whose services are not limited in duration and who is filling an approved and regularly funded position in a governmental unit, and is employed at least ~~twenty~~ seventeen and one-half hours per week and at least five months each year.

Approved March 9, 1989  
Filed March 9, 1989

\* NOTE: Subsection 4 of section 54-52.1-01 was also amended by section 62 of Senate Bill No. 2056, chapter 69.

## CHAPTER 675

SENATE BILL NO. 2412  
(Senators Satrom, Redlin)  
(Representatives V. Olson, R. Hausauer)

**UNIFORM GROUP INSURANCE SUBGROUPS**

AN ACT to amend and reenact section 54-52.1-02 and subsection 3 of section 54-52.1-03 of the North Dakota Century Code, relating to establishing subgroups in the uniform group insurance program; and to provide a statement of legislative intent.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-52.1-02 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52.1-02. Uniform group insurance program created - Formation into subgroups. In order to promote the economy and efficiency of employment in the state's service, reduce personnel turnover, and offer an incentive to high-grade men and women to enter and remain in the service of state employment, there is hereby created a uniform group insurance program. The uniform group must be composed of eligible and retired employees, and be formed to provide hospital benefits coverage, medical benefits coverage, and life insurance benefits coverage in the manner set forth in this chapter. The uniform group may be divided into the following subgroups at the discretion of the board: ~~The subgroups may be established as follows:~~

1. ~~Active eligible employee group medical~~ Medical and hospital benefits coverage group consisting of active eligible employees and retired employees not eligible for medicare. In determining premiums for coverage under this subsection for active eligible employees, the total projected premium requirements of the entire subgroup must be reduced by the projected aggregate monthly credit toward hospital and medical benefits coverage allowed retired employees not eligible for medicare under section 5 of Senate Bill No. 2068 as approved by the fifty-first legislative assembly. The reduced premium requirements must then be divided by the number of subgroup members to determine the premiums for active eligible employees. Premiums for coverage under this subsection for retired employees not eligible for medicare must be calculated based on the projected premium requirements of the entire subgroup less the total projected premium income as determined under this subsection for active eligible employees.
2. ~~Retired eligible medicare-eligible~~ employee group medical and hospital benefits coverage.
3. Active eligible employee life insurance benefits coverage.

4. Retired ~~eligible~~ employee life insurance benefits coverage.
5. Terminated employee continuation group medical and hospital benefits coverage.
6. Terminated employee conversion group medical and hospital benefits coverage.

\* SECTION 2. AMENDMENT. Subsection 3 of section 54-52.1-03 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. 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, that employee or that employee's surviving spouse may continue as a member of the uniform group under this chapter. ~~The department, board, or agency may not make a contribution for this coverage, and each eligible~~ Each retired employee and each former member of the legislative assembly or the surviving spouse of that retired employee or former legislative assembly member shall pay directly to the board the premiums in effect for the coverage then being provided.

SECTION 3. LEGISLATIVE INTENT - POTENTIAL DEFICIENCY. The fifty-first legislative assembly recognizes that the recommended increase for health insurance premiums did not anticipate creating a single actuarial pool for the active employees and pre-medicare retirees as proposed in this Act. The legislative assembly also appreciates the difficulty in projecting the actual ending balance in the health insurance fund several months in advance of the end of the biennium and recognizes the possibility exists that sufficient funds may not be available in the health insurance fund to absorb the costs of implementing this Act. However, the legislative assembly understands that an equal probability exists that certain savings may occur that could provide sufficient resources for implementation of this Act. Therefore, it is the intent of the legislative assembly that existing appropriations should be utilized to implement the provisions of this Act. If sufficient funds are not available to fully defray the implementation costs for the biennium beginning July 1, 1989, and ending June 30, 1991, the public employees retirement system shall present a deficiency appropriation request to the fifty-second legislative assembly.

Approved April 28, 1989  
Filed April 28, 1989

\* NOTE: Section 54-52.1-03 was also amended by section 4 of Senate Bill No. 2068, chapter 445.

## CHAPTER 676

HOUSE BILL NO. 1344  
(R. Larson)

### HMOs UNDER UNIFORM GROUP INSURANCE

AN ACT to amend and reenact section 54-52.1-04.1 of the North Dakota Century Code, relating to health maintenance organization contracts under the uniform group insurance program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-52.1-04.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52.1-04.1. Health maintenance organization contract - Membership option. Notwithstanding the provisions of section 54-52.1-04, the board may contract with one or more health maintenance organizations to provide eligible employees the option of membership in a health maintenance organization. If it makes such a contract, the board may not require that the health maintenance organization be federally qualified if the health maintenance organization has a certificate of authority issued by the North Dakota commissioner of insurance. The contract or contracts ~~shall~~ must be included in the uniform group insurance program.

Approved March 29, 1989  
Filed March 30, 1989

## CHAPTER 677

SENATE BILL NO. 2179  
(Committee on State and Federal Government)  
(At the request of the Public Employees Retirement System)

## UNIFORM GROUP INSURANCE FUND AND CONTRACTS

AN ACT to create and enact a new section to chapter 54-52.1 of the North Dakota Century Code, relating to the establishment of a contingency reserve fund in the uniform group insurance program; to amend and reenact section 54-52.1-04.2 of the North Dakota Century Code, relating to the bidding of administrative services only and third party administrator contracts; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-52.1-04.2 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52.1-04.2. Self-insurance plan for hospital and medical benefits coverage. The board may establish a self-insurance plan for providing health insurance benefits coverage ~~only~~ under an administrative services only (ASO) contract or a third party administrator (TPA) contract under the uniform group insurance program, if it is determined by the board that an ASO or TPA plan is less costly than the lowest bid submitted by a carrier for underwriting the plan with equivalent contract benefits. Upon establishing a self-insurance plan, the board shall solicit bids for an administrative services only or third party administrator contract only every other biennium, and the board is authorized to renegotiate an existing administrative services only or third party administrator contract during the interim. In addition, individual stop-loss coverage insured by a carrier authorized to do business in this state must be made part of any self-insured plan. All bids under this section are due no later than January first, and must be awarded no later than March first, preceding the end of each biennium. All bids under this section must be opened at a public meeting of the board.

SECTION 2. A new section to chapter 54-52.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Contingency reserve fund - Continuing appropriation. The board shall establish under a self-insurance plan a contingency reserve fund to provide for adverse fluctuations in future charges, claims, costs, or expenses of the uniform group insurance program. The board shall determine the amount necessary to provide a balance in the contingency reserve fund equal to three and one-half months of claims paid based on the average monthly claims paid during the twelve-month period immediately preceding March first of each year, and report its determination, by March fifteenth of each year, to each session of the legislative assembly or the committee designated by the legislative council to hear the report in the interim between legislative sessions. The board may arrange for the services of an actuarial consultant to assist the board in making the determination. All moneys in the contingency reserve fund, not otherwise appropriated, are appropriated for the payment of claims and other costs of the uniform group insurance program during periods of adverse claims or cost fluctuations.

Approved March 17, 1989  
Filed March 17, 1989

## CHAPTER 678

HOUSE BILL NO. 1158  
(Committee on State and Federal Government)  
(At the request of the Public Employees Retirement System)

### INSURANCE NONDISCRIMINATION TESTING

AN ACT to create and enact a new section to chapter 54-52.1 of the North Dakota Century Code, relating to conducting nondiscrimination tests under the state health and life insurance programs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-52.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Administrative - Nondiscrimination testing for health and life insurance programs. The board shall be responsible for the nondiscrimination testing required under section 89 of the Internal Revenue Code. The board may engage the services of a consultant to assist the board in its administration of this section. The various state departments, boards, agencies, and commissions shall provide the board with requested information so the board may carry out its duties under this section.

SECTION 2. LEGISLATIVE INTENT. It is the intent of the fifty-first legislative assembly that the public employees retirement system may spend \$100,000, or so much thereof as may be necessary, from the health insurance fund for conducting nondiscrimination testing to comply with section 89 of the Internal Revenue Code. If sufficient funds are not available to fully defray the costs of section 89 testing and pay the necessary health insurance premiums for the biennium beginning July 1, 1989, and ending June 30, 1991, the public employees retirement system shall present a deficiency appropriation request to the fifty-second legislative assembly.

Approved April 28, 1989  
Filed April 28, 1989

## CHAPTER 679

SENATE BILL NO. 2250  
(Committee on State and Federal Government)  
(At the request of the Office of Management and Budget)

### PERS PRETAX BENEFITS PROGRAM

AN ACT to create and enact a new chapter to title 54 of the North Dakota Century Code, relating to the establishment of a pretax benefits program to be administered by the public employees retirement system board; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Pretax benefits program for public employees. The public employees retirement system board may establish a pretax benefits program for all state employees under which a state employee may reduce the employee's salary and elect benefits to the extent of the reduction. The board may permit political subdivisions to participate in the pretax benefits program. Any participating political subdivision shall comply with the program conditions and pay all fees established by the board.

Authority of board. The board shall determine benefits to be offered under the pretax benefits program, accept proposals from qualified providers, retain consultants, and do all things necessary to administer the pretax benefits program and preserve its tax-exempt status.

Employer savings used to defray expenses of administering program - Appropriation. The implementation of a pretax benefits program will result in savings to the state as a result of the diminution of the state's employer contribution to the Federal Insurance Contribution Act tax. The office of management and budget shall transfer funds from the savings accruing to the agencies' salaries and wages line item to a payroll clearing account. The office of management and budget shall transfer funds from the payroll clearing account to the board as necessary to defray the reasonable expenses of administering the program under this chapter. Any revenue collected by the board from participating political subdivisions must be used to defray the expenses of administering the program under this chapter. The amount necessary to pay the consultants retained by the board are hereby appropriated from the savings and revenue generated by the program. All other expenses of administering the program must be paid in accordance with the agency's appropriation authority as established by the legislature.

Effect of participation on other state administered employee benefits programs. For all purposes under any state administered retirement program, disability program, life insurance program, or other employee benefits program, the compensation or gross compensation of any employee participating in any pretax benefits program is deemed to be the compensation or gross compensation which the employee would have received if the employee was not participating in the pretax benefits program.

Approved March 14, 1989  
Filed March 15, 1989

## CHAPTER 680

SENATE BILL NO. 2310  
(Senators Mathern, Waldera)  
(Representatives Scherber, Haugland, Oban)

### STATE EMPLOYEE UNCOMPENSATED FAMILY LEAVE

AN ACT to provide uncompensated family leave to state employees and protect employment and benefit rights and to allow state employees to use certain other leave to care for a child, spouse, or parent with a serious health condition; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Definitions. As used in this Act, unless the context otherwise requires:

1. "Child" means a child by birth, an adopted or foster child, a stepchild, or a legal ward, who is:
  - a. Less than eighteen years of age; or
  - b. More than seventeen years of age and incapable of providing self-care because of a serious health condition.
2. "Employee" means an individual employed in this state by an employer, whose employment is not limited in duration, who is employed for an average of at least twenty hours per week, and who has been employed by the same employer for at least one year.
3. "Employer" means the state but does not include any political subdivision of the state.
4. "Employment benefit" means all benefits provided or made available to employees by an employer, including education, health care, insurance, leave, and retirement benefits.
5. "Health care provider" means a registered nurse licensed under chapter 43-12.1, a physician licensed under chapter 43-17, a psychologist licensed under chapter 43-32, or a licensed certified social worker licensed under chapter 43-41.
6. "Health care services" means services rendered by a health care provider within the scope of the provider's license, including long-term care and hospice and hospital care.
7. "Parent" means a birth parent, foster parent, adoptive parent, or stepparent.
8. "Serious health condition" means a disabling physical or mental illness, injury, impairment, or condition involving:

- a. Inpatient care in a hospital licensed under chapter 23-16 or operated by the United States or this state, long-term care facility as defined in section 50-10.1-01, or hospice program licensed under chapter 23-17.4; or
  - b. Outpatient care that requires continuing treatment by a health care provider.
9. "Spouse" means an employee's husband or wife.

#### SECTION 2. Family leave.

1. An employer shall grant an employee's request for a family leave of absence for any of the following reasons:
  - a. To care for the employee's child by birth, if the leave begins within sixteen weeks of the child's birth.
  - b. To care for a child placed with the employee, by a child-placing agency licensed under chapter 50-12, for adoption or as a precondition to adoption under section 14-15-12, but not both, or for foster care, if the leave begins within sixteen weeks of the child's placement.
  - c. To care for the employee's child, spouse, or parent if the child, spouse, or parent has a serious health condition.
2. For any combination of reasons specified in subsection 1, an employee may take family leave to be determined by the employer on a pro rata basis according to a formula based on the average number of hours per week that the employee is employed, whereby in any twelve-month period an employee who is employed for an average of twenty hours per week during the preceding twelve months may take not more than two months of family leave and an employee who is employed for an average of forty or more hours per week during the preceding twelve months may take not more than four months of family leave.
3. In any case in which a husband and wife entitled to family leave under this Act are employed by the same employer, the aggregate period of family leave to which both are entitled may be limited by the employer to four months during any twelve-month period.
4. An employee shall reasonably consider the needs of the employer in scheduling family leave under this section or in using leave under section 3 of this Act.
5. The family leave required by this Act is not required to be granted with pay unless otherwise specified by agreement between the employer and employee, by collective bargaining agreement, or by employer policy.
6. The family leave required by this Act supplements any leave otherwise available to an employee.

SECTION 3. Use of other available leave for care of parent, spouse, or child. An employer that provides leave for its employees for illnesses or

other medical or health reasons shall grant an employee's request to use that leave to care for the employee's child, spouse, or parent if the child, spouse, or parent has a serious health condition. An employee may take not more than forty hours of leave under this section in any twelve-month period. The employer shall compensate the employee for leave used by the employee under this section on the same basis as the employee would be compensated if the leave had been taken due to the employee's own illness.

#### SECTION 4. Notice to employer.

1. If an employee intends to request family leave for the reasons specified in subdivision a or b of subsection 1 of section 2 of this Act, the employee, in a reasonable and practicable manner, shall give the employer advance notice of the expected birth or placement.
2. If an employee intends to take family leave for the reason specified in subdivision c of subsection 1 of section 2 of this Act, the employee shall:
  - a. Make a reasonable effort to schedule the planned care so that it does not unduly disrupt the employer's operations, subject to the approval of the health care provider to the child, spouse, or parent; and
  - b. Give the employer advance notice of the planned care in a reasonable and practicable manner.

#### SECTION 5. Certification for leave to care for child, spouse, or parent.

1. If an employee requests family leave for a reason described in subdivision c of subsection 1 of section 2 of this Act or leave under section 3 of this Act, the employer may require the employee to provide certification, as described in subsection 2 of this section, from the provider of health care to the child, spouse, or parent.
2. An employer may not require certification of more than:
  - a. That the child, spouse, or parent has a serious health condition.
  - b. The date the serious health condition commenced and its probable duration.
  - c. Within the knowledge of the health care provider, the medical facts regarding the serious health condition.

SECTION 6. Continued health coverage. During a period that an employee takes family leave, the employer shall continue to make any group health insurance coverage or health care plan for its employees and their dependents available to the employee and the employee's dependents under the conditions that applied immediately before the family leave began. The employer is not required to pay any cost of insurance or health care for that employee and the employee's dependents while the employee is on family leave.

**SECTION 7. Position upon return from leave.**

1. When an employee returns from family leave the employer shall immediately place the employee in an employment position as follows:
  - a. If the employment position the employee held immediately before the family leave began is vacant, in that position.
  - b. If the employment position which the employee held immediately before the family leave began is not vacant, in an employment position having equivalent compensation, benefits, hours of employment, and other terms and conditions of employment.
  - c. If, during the family leave, the employer experiences a layoff and the employee would have lost a position had the employee not been on leave, pursuant to the good faith operation of a bona fide layoff and recall system, including a system under a collective bargaining agreement, the employee is not entitled to reinstatement in the former or equivalent position. In such circumstances, the employee retains all rights under the layoff and recall system, including a system under a collective bargaining agreement, as if the employee had not taken the leave.
2. If an employee on family leave requests a return to work before the end of the leave as scheduled, the employer shall place the employee in an employment position of the type described in subsection 1 within a reasonable time not exceeding the duration of the leave as scheduled.
3. No employer may, because an employee received family leave, reduce or deny an employment benefit that accrued to the employee before the employee's leave began or accrued after the employee's leave began. However, this Act does not entitle a returning employee to a right, employment benefit, or employment position to which the employee would not have been entitled had the employee not taken family leave or to the accrual of any seniority or employment benefit during a period of family leave, unless otherwise provided by a collective bargaining or other agreement between the employer and employee.

**SECTION 8. Prohibited acts - Individual remedies.** No person may interfere with, restrain, or deny the exercise of any right provided under this Act. In addition to any remedies otherwise provided by law, any person injured by a violation of this Act has a claim for relief to recover any damages, together with costs and disbursements, including reasonable attorneys' fees, and may receive injunctive and other equitable relief as determined by the court.

**SECTION 9. Scope.**

1. This Act does not prohibit an employer from providing employees with rights to family leave which are more generous to the employee than the rights provided by this Act.

2. This Act does not limit or diminish an employee's rights or benefits under chapters 52-01 through 52-07.1.

SECTION 10. Application. This Act first applies, with respect to any employee covered by a collective bargaining agreement on the effective date of this Act, on the day after that collective bargaining agreement expires or is extended or renewed.

SECTION 11. EFFECTIVE DATE. This Act becomes effective on January 1, 1990.

Approved April 12, 1989  
Filed April 13, 1989

## CHAPTER 681

HOUSE BILL NO. 1077  
(Representatives J. DeMers, Rydell, Kelly)  
(Senators Mushik, Olson, Stenehjem)

### CHILDREN'S SERVICES COORDINATING COMMITTEE

AN ACT to establish the children's services coordinating committee; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Children's services coordinating committee - Membership. The children's services coordinating committee is hereby established and consists of the governor or a designee of the governor, the attorney general or a designee of the attorney general, the commissioner of the board of higher education or a designee of the commissioner, the superintendent of public instruction, the executive director of the department of human services, the state health officer, the director of job service North Dakota, the director of institutions, the director of vocational education, the chairperson of the governor's committee on children and youth, the executive director of the Indian affairs commission, and a designee of the chief justice. The governor or the governor's designee shall act as chairperson.

SECTION 2. Staff - Support services. The committee is authorized to employ such staff as provided by appropriations or grants. In addition, each executive branch agency, department, and office may provide support services required to achieve the objectives of the committee.

SECTION 3. Functions. The committee shall plan for and coordinate delivery of services to children and adolescents who are abused, neglected, emotionally disturbed, mentally ill, medically disabled, runaways, homeless, deprived, school dropouts, school-age parents, chemical or alcohol abusers, unruly, or delinquent. The committee shall foster preventive strategies and early intervention to strengthen families in their capacity to parent children. The committee may coordinate, sponsor, or oversee interagency or intergovernmental projects and programs for children, or projects and programs that require the participation of both governmental and private entities. No funds, grants, gifts, or services may be used for the purposes of direct provision of contraception services, abortion, or abortion referrals to minors.

SECTION 4. Charter public corporations. The children's services coordinating committee may charter public corporations to implement programs for the classes of children and programs described in section 3 of this Act. The committee shall prescribe conditions for the creation, continuance, and longevity of such corporations. Each such corporation must possess all powers and perform all the duties usual to corporations for public purposes or conferred upon it by law. Under its name, it may sue and be sued, enter into contracts, receive and expend moneys, employ personnel, and convey property as comes into its possession by will or otherwise. The employees of

such corporations must be deemed state employees for purposes of immunity and participation in fringe benefits. After approval by the children's services coordinating committee, the corporate charters become effective upon filing with the secretary of state or at a later date cited in the charter.

**SECTION 5. Authority to accept and expend funds, grants, or gifts.** The children's services coordinating committee may apply for and may accept and expend subject to legislative appropriation any funds, grants, gifts, or services made available for the purpose of planning, coordinating, or providing services to children and adolescents by any local, state, or federal agency or department, or any private agency or individual. Funds received by the children's services coordinating committee pursuant to this section must be deposited in the state treasury in a special fund designated as the children's services coordinating committee fund. The state treasurer shall invest such funds in interest-bearing accounts as are designated by the committee, and the interest earned must be deposited in the children's services coordinating committee fund.

**SECTION 6. APPROPRIATION.** There is hereby appropriated out of any moneys in the children's services coordinating committee fund, \$2,650,000, or so much thereof as may be necessary, to the children's services coordinating committee for the purpose of planning, coordinating, or providing services to children and adolescents for the biennium beginning July 1, 1989, and ending June 30, 1991.

Approved April 15, 1989  
Filed April 17, 1989