

GENERAL PROVISIONS

CHAPTER 54

SENATE BILL NO. 2068
(Legislative Council)
(Interim Judiciary Committee)

TECHNICAL CORRECTIONS ACT

AN ACT to create and enact a new subsection to section 24-01-01.1 of the North Dakota Century Code, relating to a missing reference; and to amend and reenact subsection 5 of section 4-14.1-02, sections 6-09.9-07, 10-04-08, 12.1-20-16, 15-03-04.3, 23-09.3-01, subsection 1 of section 23-18.2-02, sections 23-21.1-03, 25-04-08.1, subsection 2 of section 26.1-03-17, section 26.1-15.1-02, subsection 2 of section 26.1-38.1-11, subsection 1 of section 26.1-40-02, sections 26.1-42-01, 27-05.1-06, subsection 1 of section 27-09.1-05, subsection 48 of section 30.1-01-06, section 43-31-07, subsection 2 of section 47-18-05.1, subsection 2 of section 47-30.1-20, subsection 1 of section 47-30.1-37, subsection 6 of section 50-11.1-04, sections 50-26-01, 50-26-03, 51-13-03, subsection 8 of section 53-06.1-06, subsection 1 of section 54-07-01.2, subsection 1 of section 57-62-02, subsection 6 of section 65-01-02, subsection 3 of section 65-05-29, and section 65-05.1-03 of the North Dakota Century Code, relating to improper, inaccurate, redundant, missing, or obsolete references.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Subsection 5 of section 4-14.1-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5. Employment of needed personnel, hiring of consultants, and contracting with public entities or private parties for services as may be necessary to implement the policy and purposes of this chapter. The allocation of funds in ~~subdivisions~~ subsections 2 and 3 may be changed by the agricultural products utilization commission, subject to emergency commission approval.

SECTION 2. AMENDMENT. Section 6-09.9-07 of the North Dakota Century Code is amended and reenacted as follows:

6-09.9-07. Rules. The industrial commission may adopt such rules and guidelines as are necessary to implement sections 6-09.9-01 through ~~6-09.9-06~~ 6-09.9-05.

SECTION 3. AMENDMENT. Section 10-04-08 of the North Dakota Century Code is amended and reenacted as follows:

10-04-08. Registration by qualification. Securities required to be registered by qualification under this chapter before they may be sold in this state ~~shall~~ must be registered as provided in this section. Application for registration of securities by qualification ~~shall~~ must be made by the

* NOTE: Section 4-14.1-02 was also amended by section 2 of Senate Bill No. 2058, chapter 95.

issuer or the securities or by a registered dealer by filing in the office of the commissioner:

1. An application for registration which ~~shall~~ must be made in writing or on forms prescribed by the commissioner and which ~~shall~~ must contain the following information and be accompanied by the following documents:
 - a. With respect to the applicant or issuer and any significant subsidiary: its name, address, and form of organization; the state of foreign jurisdiction and date of its organization; the general character and location of its business; a general description of its physical properties and equipment; and a statement of the general competitive conditions in the industry or business in which it is or will be engaged.
 - b. With respect to every director and officer of the issuer, or person occupying a similar status or performing similar functions: his name, address, and principal occupation for the past five years; the amount of securities of the issuer held by him as of a specified date within thirty days of the filing of the application for registration; the amount of the securities covered by the application for registration to which he has indicated his intention to subscribe; and a description of any material interest in any transaction with the issuer or any subsidiary effected within the past three years or proposed to be effected.
 - c. With respect to persons covered by subdivision b: the remuneration paid during the past twelve months and estimated to be paid during the next twelve months, directly or indirectly, by the issuer to all those persons in the aggregate.
 - d. With respect to any person owning of record, or beneficially if known, ten percent or more of the outstanding shares of any class of equity security of the issuer: the information specified in subdivision b other than his occupation.
 - e. With respect to every promoter if the issuer was organized within the past three years: the information specified in subdivision b, any amount paid to him within that period or intended to be paid to him, and the consideration for any such payment.
 - f. With respect to any person on whose behalf any part of the offering is to be made in a nonissuer distribution: his name and address; the amount of securities of the issuer held by him as of the date of the filing of the application for registration; a description of any material interest in any transaction with the issuer or any subsidiary effected within the past three years or proposed to be effected; and a statement of his reasons for making the offering.
 - g. The title, kind, classes, and amount of securities to be offered in this state; the proposed offering price to the public or the method by which it is to be computed; any

variation therefrom at which any proportion of the offering is to be made to any person or class of persons other than the underwriters, with a specification of any such person or class; the basis upon which the offering is to be made if otherwise than for cash; the maximum amount of commission or other form of remuneration to be paid in cash or otherwise, directly or indirectly, for or in connection with the sale or offering for sale of such securities; the estimated aggregate underwriting and selling discounts or commissions and finders' fees, including separately cash, securities, contracts, or anything else of value to accrue to the underwriters or finders in connection with the offering, or, if the selling discounts or commissions are variable, the basis of determining them and their maximum and minimum amounts; the estimated amounts of other selling expenses, including legal, engineering, and accounting charges and a statement as to what person or corporation shall be responsible for payment of the same; the name and address of every underwriter and every recipient of a finder's fee; a copy of any underwriting or selling-group agreement pursuant to which the distribution is to be made, or the proposed form of any such agreement whose terms have not yet been determined; and a description of the plan of distribution of any securities which are to be offered otherwise than through an underwriter.

- h. The estimated cash proceeds to be received by the issuer from the offering; the purposes for which the proceeds are to be used by the issuer; the amount to be used for each purpose; the amounts of any funds to be raised from other sources to achieve the purposes stated; the sources of any such funds; and, if any part of the proceeds is to be used to acquire any property, including goodwill, otherwise than in the ordinary course of business, the names and addresses of the vendors, the purchase price, the names of any persons who have received commissions in connection with the acquisition, and the amounts of any such commissions and any other expense in connection with the acquisition.
- i. A description of each and every stock option or other security option outstanding, or to be created in connection with the offering, including the price at which such options may be exercised together with the amount of any such options held or to be held by every person.
- j. The capitalization and long-term debt of the issuer and any subsidiary, including a description of each security outstanding or being registered or otherwise offered, and a statement of the amount and kind of consideration for which the issuer or any subsidiary has issued any of its securities within the past two years or is obligated to issue any of its securities.
- k. The dates of, parties to, and general effect concisely stated of, every management or other material contract made or to be made otherwise than in the ordinary course of business if it is to be performed in whole or in part at or after the filing of the application for registration or was made within the past

two years, together with a copy of every such contract; and a description of any pending litigation or proceeding to which the issuer is a party and which affects its business or assets.

- l. A detailed statement showing the items of cash, property, services, patents, goodwill, and any other consideration for which any securities of the issuer have been within two years or are to be issued in payment.
 - m. A copy of any prospectus, pamphlet, circular, form letter, advertisement, or other sales literature intended as of the effective date to be used in connection with the offering.
 - n. A specimen or copy of the security being registered; a copy of the issuer's articles of incorporation and bylaws, as currently in effect; and a copy of any indenture or other instrument covering the security to be registered.
 - o. A balance sheet of the issuer as of a date within four months prior to the filing of the application for registration; a profit and loss statement and analysis of surplus for each of the three fiscal years preceding the date of the balance sheet and for any period between the close of the last fiscal year and the date of the balance sheet, or for the period of the issuer's and any predecessors' existence if less than three years; and, if any part of the proceeds of the offering is to be applied to the purchase of any business, the same financial statements which would be required if the business were the registrant.
 - p. Other states in which it is proposed to offer the securities for sale to the public; other states in which the securities are eligible for sale to the public; states which have refused, by order or otherwise, to render the securities eligible for sale to the public or have revoked or suspended the right to sell the securities, or in which an application for registration has been withdrawn; and, if application has been made to register the securities under the Federal Securities Act of 1933, the date upon which the application to register the securities was first filed, and a statement as to whether registration under that Act is effective, and if so, the effective date.
 - q. Such additional information as the commissioner requires by rule or order or may subsequently request.
2. a. Payment of a registration fee for each security or class of security to be registered as follows:
 - (1) One-tenth of one percent of the first seven hundred fifty thousand dollars of the aggregate offering price of each security or class of security to be registered.
 - (2) One-twentieth of one percent of any amount in excess of seven hundred fifty thousand dollars of the aggregate offering price of each security or class of security to be registered.

- (3) In no event ~~shall~~ may such registration fee be less than one hundred dollars for each security or class of security to be registered. If the application for registration is denied, such registration fee less the actual cost to the state of processing and investigating as determined by the commissioner ~~shall~~ must be returned to the applicant.
 - (4) Provided, further, that any applicant may register additional securities under this subdivision before the expiration of one year from the date of the registration certificate at the same reduced fee, which ~~shall~~ must be computed as provided in paragraphs 1 and 2 as a separate fee for each additional amount registered, as if the additional securities had been included in the other registration of that year, registration year and not calendar year.
 - (5) For the renewal of the registration of securities for additional periods of one year there ~~shall~~ must be paid a renewal fee of one hundred dollars.
- b. (1) Each open-end management company, unit investment trust, and face amount certificate company, as defined in the Investment Company Act of 1940 [Pub. L. 76-768; 54 Stat. 789; 15 U.S.C. 80a-1 et seq.] may register an indefinite number or amount of securities by including on the facing sheet of its registration statement a declaration that an indefinite number or amount of securities is being registered by such registration statement.
- (2) At the time a declaration is filed there ~~shall~~ must be paid a registration fee of five hundred dollars.
 - (3) Provided, further, that those issuers of several classes of such securities may not combine the registration of several classes.
 - (4) Each open-end management company, unit investment trust, and face amount certificate company, as defined in the Investment Company Act of 1940 [Pub. L. 76-768; 54 Stat. 789; 15 U.S.C. 80a-1 et seq.] having an effective registration statement relating to an indefinite number or amount of securities shall, within sixty days after the end of any fiscal year and after the registration is terminated, file a report of the aggregate public offering price of securities sold in this state during the fiscal year and shall pay a filing fee of one-twentieth of one percent of such amount, but in no case ~~shall~~ may such filing fee be less than one hundred dollars nor more than two hundred fifty dollars. Failure to file the report and fee ~~shall be~~ is cause for the issuance of a stop order.
3. If the applicant is not domiciled in this state and is not a corporation organized or authorized to transact business under the laws of this state, a consent to service of process conforming to the requirements of section 10-04-14.

4. The commissioner may by rule or order require as a part of the application for registration under this section that a prospectus containing any designated part of the information specified in subsection 1 be submitted to the commissioner and the same prospectus ~~shall~~ must be sent or given to each person to whom a sale or an offer to sell is made. The commissioner may by rule or otherwise permit the omission of any item of information or document from any application for registration. In all cases in which an application is filed to register securities and a registration statement covering the same securities has been filed with the federal securities and exchange commission, a copy of the registration statement so filed ~~shall~~ must be accepted by the commissioner in lieu of the information specified in subdivisions a through q of subsection 1, except that it ~~shall~~ must be accompanied by a statement of the amount of such securities to be offered in this state. All of the statements, exhibits, or documents of every kind required under this section ~~shall~~ must be certified by the applicant or the issuer or any person having knowledge of the facts. An applicant may, with the consent of the commissioner, amend or withdraw an application and any or all statements, exhibits, or documents filed therewith under this section at any time prior to the registration or prior to any offering and sale of the securities sought to be registered or the entry of an order denying the registration of such securities, but in no event ~~shall~~ may the registration fee be returned.

Registration under this section ~~shall be~~ is effective for a period of one year, except that the effectiveness of a registration for an indefinite number or amount of securities under paragraph 1 of subdivision b of subsection 2 shall continue until terminated by either the commissioner or the issuer by filing within one hundred twenty days of the end of its fiscal year, an updated prospectus, a balance sheet, and a statement of income of the issuer.

SECTION 4. AMENDMENT. Section 12.1-20-16 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

12.1-20-16. Appointment of a guardian ad litem in prosecution for sex offenses. A minor who is a material or prosecuting witness in a criminal proceeding involving an act in violation of sections 12.1-20-01 through 12.1-20-08, or section 12.1-20-11 may, at the discretion of the court, have the witness' interests represented by a guardian ad litem at all stages of the proceedings arising from the violation. The appointment may be made upon the order of the court on its own motion or at the request of a party to the action. The guardian ad litem may, but need not, be a licensed attorney and must be designated by the court after due consideration is given to the desires and needs of the child. A person who is also a material witness or prosecuting witness in the same proceeding may not be designated guardian ad litem. The guardian ad litem ~~shall~~ must receive notice of and may attend all depositions, hearings, and trial proceedings to support the child and advocate for the protection of the child but may not separately introduce evidence or directly examine or cross-examine witnesses. The expenses of the guardian ad litem, when approved by the judge, must be paid by the county wherein the alleged offense took place if the action is prosecuted in county court, and by the state if the action is prosecuted in district court. The state shall also pay the expenses of the guardian ad litem in commitment

proceedings held in county court pursuant to subsection 7 8 of section 27-07.1-17.

SECTION 5. AMENDMENT. Section 15-03-04.3 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-03-04.3. Loan pool account - Management by Bank of North Dakota. Subject to ~~the provisions of~~ this chapter the Bank of North Dakota ~~shall~~, in accordance with standard banking practices, shall manage all loans in the loan pool account and execute all instruments on behalf of the board of university and school lands that pertain to real estate mortgages in the loan pool account, including reamortization agreements, satisfactions, and partial releases. The Bank of North Dakota shall also act as agent for the board and shall execute all instruments, including reamortization agreements, satisfactions, and partial releases, that pertain to mortgages previously issued by the board. All instruments must be executed in the same manner as specified in section ~~6-09-26-1~~ 6-09-26. This section is self-executing and no assignment, power of attorney, or other instrument of transfer is necessary to establish the authority of the Bank of North Dakota to act on behalf of the board of university and school lands under this section.

SECTION 6. AMENDMENT. Section 23-09.3-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23-09.3-01. Basic care facility - Defined. As used in this chapter, the term "basic care facility" means any place, not licensed by the department of health and consolidated laboratories, hereinafter referred to as the department, under chapter ~~26-16~~ 23-16, operated by any person, institution, organization, or private or public corporation, in which five or more individuals not related by blood or marriage to the owner or manager of the place, are received, kept, and provided with food, shelter, and care for hire or compensation. Care for hire or compensation to assist residents with functional impairments includes routine maintenance and supportive care with activities of daily living and instrumental activities of daily living which need not be provided in an institutional setting by trained and skilled medical personnel, can be administered without any possible harm to the health of the individual in care, and has no significant relationship to medical care of any type. Any place that assists its residents with walking, dressing, or toilet usage, or which promotes supervision of person, or which employs any staff to aid residents in addition to cooks or maids for cleaning, is considered to be a basic care facility subject to regulation by the department.

SECTION 7. AMENDMENT. Subsection 1 of section 23-18.2-02 of the North Dakota Century Code is amended and reenacted as follows:

1. "Nursing home" means such institutions or facilities defined by subsection 3 of section 43-34-01, with the exception of those institutions or facilities administered by state government or any agency or political subdivision thereof, but including those institutions or facilities constructed, acquired, leased, or rehabilitated under the provisions of this chapter, and also including any institution or facility defined by and included in section ~~50-10-01~~ 23-09.3-01.

SECTION 8. AMENDMENT. Section 23-21.1-03 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23-21.1-03. Creation of perpetual care fund. Any organization subject to the provisions of this chapter which is organized or commences business in the this state of North Dakota and desires to operate as a perpetual care cemetery ~~shall~~, before selling or disposing of any interment space or lots, shall establish a minimum perpetual care and maintenance guarantee fund of twenty-five thousand dollars in cash, except that the minimum perpetual care and maintenance guarantee fund for organizations in operation on the effective date of this chapter July 1, 1963, must be five thousand dollars. The perpetual care and maintenance guarantee fund must be permanently set aside in trust to be administered under the jurisdiction of the district court of the county wherein the cemetery is located. The district court shall have jurisdiction over the approval of trustees, reports and accounting of trustees, amount of surety bond required, and investment of funds as provided by chapter 59-04 relating to the administration of trust estates. Only the income from such fund may be used for the care and maintenance of the cemetery for which it was established. All such organizations shall submit at least annually, to the district court, such reports as are required. The clerks of each of the district courts shall transmit copies of all reports, and rules and regulations enacted by the organization, to the state department of health and consolidated laboratories and the commissioner of banking and financial institutions.

To continue to operate as a perpetual care cemetery, any such organization shall set aside and deposit in the perpetual care fund not less than the following amounts for lots of interment space thereafter sold or disposed of:

1. A minimum of twenty percent of the gross selling price with a minimum of twenty dollars for each adult space, whichever is the greater.
2. A minimum of twenty percent of the gross selling price for each child's space with a minimum of five dollars for each space up to forty-two inches [1006.8 millimeters] in length or ten dollars for each space up to sixty inches [1524 millimeters] in length, whichever is the greater.
3. A minimum of twenty percent of the gross selling price with a minimum of one hundred dollars for each space or crypt in a mausoleum, whichever is the greater, except a mausoleum located in a cemetery covered by a perpetual care fund which consists of at least twenty percent of the proceeds received by the cemetery from the sale of cemetery lots, in which event, the perpetual care fund for the public or community mausoleum itself shall contain a minimum of twenty percent of the cost of the construction of such public or community mausoleum.
4. A minimum of twenty percent of the gross selling price with a minimum of ten dollars for each inurnment niche in a columbarium, except a columbarium located in a cemetery covered by a perpetual care fund which consists of at least twenty percent of the proceeds received by the cemetery from the sale of cemetery lots, in which event, the perpetual care fund for the public or community columbarium itself shall contain a minimum of twenty percent of the cost of the construction of such public or community columbarium.

5. A minimum of twenty percent of the gross selling price with a minimum of one hundred dollars, whichever is the greater, for each interment space in crypt gardens or any other structure or device by whatever name, established or constructed wholly or partially above the natural surface of the ground, for the interment of any dead human body.

There is no required perpetual care fund deposit on spaces provided without charge for paupers and infants.

SECTION 9. AMENDMENT. A new subsection to section 24-01-01.1 of the 1989 Supplement to the North Dakota Century Code is created and enacted as follows:

"Director" means the director of the department of transportation.

*** SECTION 10. AMENDMENT.** Section 25-04-08.1 of the North Dakota Century Code is amended and reenacted as follows:

25-04-08.1. Notification prior to discharge. Prior to discharge the superintendent shall consult with the parent or guardian ~~of the person~~ of the developmentally disabled person, or with the court which ordered the commitment, and shall notify the director of the county social service board of the county wherein it is proposed that such person will assume residence and also shall ~~also~~ notify the executive director of the department of human services.

**** SECTION 11. AMENDMENT.** Subsection 2 of section 26.1-03-17 of the North Dakota Century Code is amended and reenacted as follows:

2. An insurance company, nonprofit health service corporation, health maintenance organization, or prepaid legal service organization subject to the tax imposed by subsection 1 is entitled to a credit against the tax due for the amount of any assessment paid as a member of a comprehensive health association under subsection 4 of section 26.1-08-09 for which the member may be liable for the year in which the assessment was paid, a credit as provided under subsection 1 of section ~~26.1-38-08~~ 26.1-38.1-10, a credit against the tax due for an amount equal to the examination fees paid to the commissioner under sections 26.1-01-07, 26.1-02-02, 26.1-03-19 through 26.1-03-22, 26.1-17-32, and 26.1-18-27, and a credit against the tax due for an amount equal to the ad valorem taxes, whether direct or in the form of rent, on that proportion of premises occupied as the principal office in this state for over one-half of the year for which the tax is paid. The credits under this subsection must be prorated on a quarterly basis and may not exceed the total tax liability under subsection 1.

SECTION 12. AMENDMENT. Section 26.1-15.1-02 of the North Dakota Century Code is amended and reenacted as follows:

26.1-15.1-02. Fraternal benefit societies. Any incorporated society, order, or supreme lodge without capital stock, including one exempted under subdivision b of subsection 1 of section ~~26.1-15.1-38~~ 26.1-15.1-37 whether incorporated or not, conducted solely for the benefit of its members and their beneficiaries and not for profit, operated on a lodge system with ritualistic form of work, having a representative form of government, and

*** NOTE:** Section 25-04-08.1 was also amended by section 9 of House Bill No. 1410, chapter 294.

**** NOTE:** Section 26.1-03-17 was also amended by section 4 of Senate Bill No. 2266, chapter 301.

which provides benefits in accordance with this chapter, is a fraternal benefit society.

SECTION 13. AMENDMENT. Subsection 2 of section 26.1-38.1-11 of the North Dakota Century Code is amended and reenacted as follows:

2. Records must be kept of all negotiations and meetings in which the association or its representatives are involved to discuss the activities of the association in carrying out its powers and duties under section 26.1-38.1-05. Records of such negotiations or meetings may be made public only upon the termination of a liquidation, rehabilitation, or conservation proceeding involving the impaired or insolvent insurer, upon the termination of the impairment or insolvency of the insurer, or upon the order of a court of competent jurisdiction. Nothing in this subsection limits the duty of the association to render a report of its activities under ~~this~~ section 26.1-38.1-12.

SECTION 14. AMENDMENT. Subsection 1 of section 26.1-40-02 of the North Dakota Century Code is amended and reenacted as follows:

1. No insurer may cancel a policy except for the following reasons:
 - a. Nonpayment of premium.
 - b. Because the motor vehicle operator's license or motor vehicle registration of either the named insured or any other operator who resides in the same household as the named insured or who customarily operates a motor vehicle insured under the policy has been suspended, rescinded, canceled, or revoked during the policy period, or, if the policy is a renewal, during its policy period or for one hundred eighty days immediately preceding its effective date. This subdivision does not apply and the insurer may not cancel a policy where the operator whose license is suspended or revoked is excluded from coverage under the policy. The insurer shall notify the named insured of the possibility of excluding an operator whose license has been suspended or revoked prior to cancellation of the policy. When an operator whose license is suspended or revoked is excluded from coverage under the policy covering a secured motor vehicle, the owner of the motor vehicle who gives expressed or implied consent to the operator to use the motor vehicle is not relieved of liability under subsection 5 of section ~~26.1-41-03~~ 26.1-41-02.
 - c. Fraud or material misrepresentation made by or with the knowledge of any insured in obtaining the policy, continuing the policy, or in presenting a claim under the policy.
 - d. The insured motor vehicle is:
 - (1) So mechanically defective that its operation might endanger public safety;
 - (2) Used in carrying passengers for hire or compensation; provided, however, that the use of an automobile for a car pool is not use of an automobile for hire or compensation;

- (3) Used in the transportation of flammables or explosives or for an illegal purpose;
 - (4) An authorized emergency vehicle; or
 - (5) Altered by an insured during the policy period so as to substantially increase the risk.
- e. The named insured moves to a state where the insurer is not licensed to do business.
 - f. Failure to pay dues or fees where payment of the dues or fees is a prerequisite to obtaining or continuing automobile insurance coverage.
 - g. A determination by the commissioner that the continuation of the policy would place the insurer in violation of the law or would be hazardous to the interests of policyholders, creditors, or the public.

* SECTION 15. AMENDMENT. Section 26.1-42-01 of the North Dakota Century Code is amended and reenacted as follows:

26.1-42-01. Scope. This chapter applies to all kinds of direct insurance policies and contracts except life insurance policies, accident and health insurance policies, health service contracts, annuity contracts, contracts supplemental to life and accident and health insurance policies and annuity contracts, and any other policies and contracts within the application of section ~~26.1-38-01~~ 26.1-38.1-01, title insurance policies, surety contracts, credit insurance policies and contracts, mortgage guaranty insurance policies and contracts, and ocean marine insurance policies and contracts. This chapter must be liberally construed.

** SECTION 16. AMENDMENT. Section 27-05.1-06 of the North Dakota Century Code is amended and reenacted as follows:

27-05.1-06. Rules of procedure in the institution of actions for divorce or separation - Residence requirement. ~~From and after the effective date of this chapter~~ After June 30, 1965, all civil actions instituted in divorce or separation cases venued in a county wherein a family court has been established and in which one of the parties resides, may not be filed or instituted unless either family court jurisdiction in such a case has been waived by court order or there has first been filed in the office of the clerk of the district court wherein the action is to be brought, a petition in substantially the following form:

1. The petition ~~shall~~ must be captioned substantially as follows:

DISTRICT COURT OF THE STATE OF
NORTH DAKOTA
For the County of -----
Petition
(Under the Family Court Act)

Upon petition of -----

and concerning -----
and -----

* NOTE: Section 26.1-42-01 was also amended by section 25 of Senate Bill No. 2266, chapter 301.

** NOTE: Section 27-05.1-06 was repealed by section 9 of Senate Bill No. 2268, chapter 328.

Respondent

To the Family Court:

2. The petition ~~shall~~ must:

- a. Allege that a controversy exists between the spouses.
- b. State the name and age of each minor child of the petitioner and spouse.
- c. State the name and address of the petitioner, or the names and addresses of the petitioners, and the names and address of counsel, if any.
- d. If the petition is presented by one spouse only, name the other spouse as a respondent, and state the address of that spouse.
- e. State such other information as the court may by rule require.

* SECTION 17. AMENDMENT. Subsection 1 of section 27-09.1-05 of the North Dakota Century Code is amended and reenacted as follows:

1. The jury commission for each county shall compile and maintain a master list consisting of all lists of actual voters for the county supplemented with names from other lists of persons resident therein, such as lists of utility customers, property taxpayers, motor vehicle registrations, and driver's licenses, which the supreme court of this state from time to time designates. The supreme court shall initially designate the other lists within ninety days ~~following the effective date of this chapter after June 30, 1971,~~ and exercise the authority to designate from time to time in order to foster the policy of and protect the rights secured by this chapter (sections 27-09.1-01 and 27-09.1-02). In compiling the master list the jury commission shall avoid duplication of names.

** SECTION 18. AMENDMENT. Subsection 48 of section 30.1-01-06 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

48. "Trust" includes any express trust, private or charitable, with additions thereto, wherever and however created. It also includes a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust. "Trust" excludes other constructive trusts, and it excludes resulting trusts, conservatorships, personal representatives, trust accounts as defined in custodial arrangements pursuant to chapter 11-22, sections 25-01.1-19 to 25-01.1-21, chapter 32-10, section 32-16-37, chapter 32-26, former chapter 47-24, chapter 47-24.1, ~~sections 54-23-27 to~~ section 54-23-29, business trusts providing for certificates to be issued to beneficiaries, common trust funds, voting trusts, security arrangements, liquidation trusts, and trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind, and any arrangement under which a person is nominee or escrowee for another.

* NOTE: Section 27-09.1-05 was also amended by section 2 of Senate Bill No. 2385, chapter 332.

** NOTE: Subsection 48 of section 30.1-01-06 was also amended by section 1 of House Bill No. 1193, chapter 595.

SECTION 19. AMENDMENT. Section 43-31-07 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

43-31-07. Qualifications of applicant. A person is qualified to receive a license as an examiner:

1. Who is at least eighteen years of age.
2. Who establishes that he is a person of honesty, truthfulness, integrity, and moral fitness.
3. Who has not been convicted of an offense determined by the attorney general to have a direct bearing upon a person's ability to serve the public as an examiner, or who, following conviction of any offense, is ~~not~~ determined, pursuant to section 12.1-33-02.1, to be rehabilitated, or who has not been released or discharged under other than honorable conditions from any of the armed services of the United States.
4. Who has passed an examination conducted by the attorney general, or under his supervision, to determine his competency to obtain a license to practice as an examiner except that an examiner who was continually engaged in the administration of examinations for the two-year period immediately prior to July 1, 1975, or who had successfully completed a training course prior to July 1, 1975, from a school deemed acceptable by the attorney general, and who was previously exempt from the provisions of this chapter as an examiner in the exclusive employ of the state of North Dakota, a county, municipality, or political subdivision thereof as then provided by section 43-31-15 shall be exempt from the requirement of an examination.
5. Who has satisfactorily completed a polygraph examiners course approved by the attorney general and has satisfactorily completed not less than six months of internship training.

SECTION 20. AMENDMENT. Subsection 2 of section 47-18-05.1 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. This section does not apply to mortgages on property platted under chapter ~~40-50~~ 40-50.1.

SECTION 21. AMENDMENT. Subsection 2 of section 47-30.1-20 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. A holder who has paid money to the administrator pursuant to this chapter may make payment to any person appearing to the holder to be entitled to payment and, upon filing proof of payment and proof that the payee was entitled thereto, the administrator shall promptly reimburse the holder for the payment without imposing any fee or other charge. If reimbursement is sought for a payment made on a negotiable instrument, including a traveler's check or money order, the holder must be reimbursed under this subsection upon filing proof that the instrument was duly presented and that payment was made to a person who appeared to the holder to be

entitled to payment. The holder must be reimbursed for payment made under this subsection even if the payment was made to a person whose claim was barred under ~~subsection 1 of~~ section 47-30.1-29.

SECTION 22. AMENDMENT. Subsection 1 of section 47-30.1-37 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. This chapter does not relieve a holder of a duty that arose before July 1, 1985, to report, pay, or deliver property. A holder who has not complied with the law in effect before July 1, 1985, is subject to the applicable enforcement and penalty provisions that then existed and they are continued in effect for the purpose of this subsection: ~~subject to subsection 2 of section 47-30.1-29.~~

SECTION 23. AMENDMENT. Subsection 6 of section 50-11.1-04 of the North Dakota Century Code is amended and reenacted as follows:

6. The group child care or child care center facility maintains at all times during which ~~supplemental parental care~~ early childhood services is provided at least one person who has received training and is currently certified in rescuer cardiopulmonary resuscitation by the American heart association, American red cross, or other similar cardiopulmonary resuscitation training programs that are approved by the department.

* SECTION 24. AMENDMENT. Section 50-26-01 of the North Dakota Century Code is amended and reenacted as follows:

50-26-01. Establishment of governor's council on human resources - Certain committees to constitute - Appointment. There is hereby established a governor's council on human resources to be maintained within the office of the governor. The council must consist of a committee on aging, a committee on children and youth, a committee on employment of ~~persons~~ people with disabilities, a commission on the status of women, and other committees having a related interest in human resources as may be appointed. Each committee member must be appointed by the governor for a term of three years, staggered so that the terms of one-third of the members of each committee expire July first of each year, except that initial appointments to the committees must be made on the basis of a one-year term for one-third of the members of each committee; a two-year term for one-third of the members of each committee; and a full three-year term for the remaining members of each committee. At least one-third of the members appointed to the committee on children and youth must have expertise in the prevention of child abuse and neglect. Each of the committees of the governor's council on human resources may appoint to their committee the chairman of the mayor's committee or the chairman's designated representative. A vacancy occurring other than by reason of the expiration of a term must be filled in the same manner as original appointments, except that the appointment may be made for the remainder of the unexpired term only.

SECTION 25. AMENDMENT. Section 50-26-03 of the North Dakota Century Code is amended and reenacted as follows:

50-26-03. Human resources committees - Organization - Expenses. The governor's committees on aging, children and youth, employment of ~~persons~~ people with disabilities, the commission on the status of women, and such

* NOTE: Section 50-26-01 was also amended by section 5 of Senate Bill No. 2237, chapter 508.

other committees who have a related interest in human resources, at their first meetings after July first of each year, shall elect from their committee membership a chairman and vice chairman. Every meeting of each committee must be called by the chairman of the committee and must be presided over by the chairman unless the chairman is unable to act, in which case the vice chairman shall succeed to the powers and duties of the chairman. Each of the committee members is entitled to be paid for all necessary mileage and other actual expenses incurred in the performance of their official duties as members of such committees in the same amount and in the same manner as other state officials are paid.

SECTION 26. AMENDMENT. Section 51-13-03 of the North Dakota Century Code is amended and reenacted as follows:

51-13-03. Finance charge limitation.

1. A retail seller may contract for in a retail installment contract and charge, receive, and collect the finance charge computed on the principal balance of the contract or obligation from the date thereof until paid. A retail seller who complies with the disclosure provisions of this chapter is deemed a regulated lender under section 47-14-09.
2. The finance charge must be computed on the amount financed as determined under subdivision c of subsection 4 2 of section 51-13-02. This finance charge may be precomputed on the amount financed calculated on the assumption that all scheduled payments will be paid when due and the effect of prepayment is governed by the provisions on rebate upon prepayment.
3. When a retail installment contract provides for unequal or irregular installments, the finance charge must be at the effective rate provided in subsection 1, having due regard for the schedule of installments.
4. The finance charge must be inclusive of all charges incident to investigating and making the contract, and for the extension of the credit provided for in the contract and no fee, expense, or other charge whatsoever may be taken, received, reserved, or contracted for except as provided in this section and in subdivision e of subsection 6 2 of section 51-13-02 and for those items expressly provided for in the retail installment contract as set forth in subdivision c of subsection 4 2 of section 51-13-02.

* SECTION 27. AMENDMENT. Subsection 8 of section 53-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

8. Except at the temporary alternate site provided by subdivision a of subsection 3 4 of section 53-06.1-03, only the members of an organization licensed as a class A licensee by the attorney general under this chapter and their spouses and bona fide guests may participate in playing games of chance conducted by such licensed organization.

** SECTION 28. AMENDMENT. Subsection 1 of section 54-07-01.2 of the North Dakota Century Code is amended and reenacted as follows:

* NOTE: Section 53-06.1-06 was also amended by section 4 of House Bill No. 1597, chapter 549; by section 23 of Senate Bill No. 2001, chapter 28; by section 2 of Senate Bill No. 2219, chapter 545; and by section 1 of Senate Bill No. 2541, chapter 550.

** NOTE: Subsection 1 of section 54-07-01.2 was also amended by section 3 of Senate Bill No. 2182, chapter 525.

1. Notwithstanding sections 2-05-01, 4-18.1-04, 4-27-04, 6-01-03, ~~6-09-1-02~~ 6-09-02.1, 12-55-01, 12-59-01, 15-21-17, 15-38-17, 15-39.1-05, 15-65-02, 20.1-02-23, 23-01-02, 23-25-02, 36-01-01, 37-18.1-01, 50-26-01, 51-10-13, 54-54-02, 55-01-01, 55-06-01, 61-02-04, and 61-28-03, all members of the following boards and commissions must, subject to the limitations of this section, be considered to have resigned from such boards and commissions effective January first of the first year of each four-year term of the governor:
 - a. The aeronautics commission.
 - b. The milk stabilization board.
 - c. The dairy promotion commission.
 - d. The state banking board.
 - e. The state credit union board.
 - f. The advisory board of directors to the Bank of North Dakota.
 - g. The board of pardons.
 - h. The state parole board.
 - i. The state board of public school education.
 - j. The teachers' professional practices commission.
 - k. The board of trustees for the teachers' fund for retirement.
 - l. The educational telecommunications council.
 - m. The state game and fish advisory board.
 - n. The health council.
 - o. The air pollution control advisory council.
 - p. The board of animal health.
 - q. The administrative committee on veterans' affairs.
 - r. The governor's council on human resources.
 - s. The North Dakota trade commission.
 - t. The North Dakota council on the arts.
 - u. The state historical board.
 - v. The Yellowstone-Missouri-Fort Union commission.
 - w. The state water commission.
 - x. The state water pollution control board.

SECTION 29. AMENDMENT. Subsection 1 of section 57-62-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Fifteen percent ~~shall must~~ be deposited in a permanent trust fund in the state treasury, to be known as the coal development trust fund, pursuant to section 21 of article X of the Constitution of North Dakota. Those funds held in trust and administered by the board of university and school lands on March 5, 1981, pursuant to section 12, chapter 563, 1975 Session Laws; section 12, chapter 560, 1977 Session Laws; or section ~~46~~ 13, chapter 626, 1979 Session Laws ~~shall must~~ also be deposited in the trust fund created pursuant to this subsection. The fund ~~shall must~~ be held in trust and administered by the board of university and school lands for loans to coal impacted counties, cities, and school districts as provided in section 57-62-03. The board of university and school lands may invest such funds as are not loaned out as provided in this chapter and may consult with the state investment board as provided by law. The income, including interest payments on loans, from the trust ~~shall must~~ be used first to replace uncollectible loans made from the fund and the balance ~~shall must~~ be deposited in the state's general fund. Loan principal payments ~~shall must~~ be redeposited in the trust fund. Such trust fund ~~shall must~~ be perpetual and held in trust as a replacement for depleted natural resources subject to the provisions of this chapter.

*** SECTION 30. AMENDMENT.** Subsection 6 of section 65-01-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

6. "Bureau" means the North Dakota workers compensation bureau, or any director, ~~departments~~ department heads, assistants, or employees ~~designated by the commissioners~~ of the bureau, to act within the course and scope of their employment in administering the policies, powers, and duties of this title.

SECTION 31. AMENDMENT. Subsection 3 of section 65-05-29 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. A claim by the bureau for any payments made due to:
 - a. Clerical error, mistake of identity, innocent misrepresentation by or on behalf of the recipient, or any other circumstance of a similar nature, all not induced by fraud, in which cases the recipient shall repay it or recoupment of any unpaid amount may be made from any future payments due to the recipient on any claim with the bureau;
 - b. An adjudication by the bureau or by order of the board or any court, if the final decision is that the payment was made under an erroneous adjudication, in which cases the recipient shall repay it or recoupment of any unpaid amount may be made from any future payments due to the recipient on any claim with the bureau;

*** NOTE:** Section 65-01-02 was also amended by section 1 of House Bill No. 1324, chapter 713, and by section 23 of Senate Bill No. 2206, chapter 714.

- c. Fraud, in which case the recipient shall repay the payment or the unpaid amount of the sum may be recouped from any future payments due to the recipient on any claim with the bureau; or
- d. Overpayment due to application of section ~~65-05.1-09~~ 65-05-09.1.

SECTION 32. AMENDMENT. Section 65-05.1-03 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

65-05.1-03. Director of rehabilitation services - Duties. The director of rehabilitation services shall:

1. Direct the implementation of programs for individual workers compensation claimants in accordance with bureau determinations in compliance with the purpose of this chapter.
2. Cooperate, contact, and assist any government or private organization or agency or group of individuals or business or individual necessary or advantageous in carrying out the purpose of this chapter.
3. ~~Enforce the provisions of all vocational rehabilitation contracts as provided in section 65-05.1-05.~~
4. Keep such records, for statistical purposes, and provide such training necessary for the bureau staff as is necessary to keep pace with future developments in the area of rehabilitation services.

Approved March 11, 1991
Filed March 11, 1991

CHAPTER 55

SENATE BILL NO. 2489
(Senators Ingstad, Mathern, Holmberg)
(Representatives Jensen, St. Aubyn, Scherber)

MARTIN LUTHER KING DAY

AN ACT to amend and reenact section 1-03-01 of the North Dakota Century Code, relating to holidays; and to repeal section 1-03-09 of the North Dakota Century Code, relating to Martin Luther King Day.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 1-03-01 of the North Dakota Century Code is amended and reenacted as follows:

1-03-01. Holidays. Holidays are as follows:

1. Every Sunday.
2. The first day of January, which is New Year's Day.
3. The third Monday of January, which is Martin Luther King Day, in recognition of the life, legacy, and dream of Martin Luther King, Jr.
4. The third Monday in February, in recognition of the birthday of George Washington.
- ~~4-~~ 5. The Friday next preceding Easter Sunday and commonly known as Good Friday.
- ~~5-~~ 6. The last Monday in May, which is Memorial Day.
- ~~6-~~ 7. The fourth day of July, which is the anniversary of the Declaration of Independence.
- ~~7-~~ 8. The first Monday in September, which is Labor Day.
- ~~8-~~ 9. The eleventh day of November, which is Veterans' Day.
- ~~9-~~ 10. The fourth Thursday in November, which is Thanksgiving Day.
- ~~10-~~ 11. The twenty-fifth day of December, which is Christmas Day.
- ~~11-~~ 12. Every day appointed by the President of the United States or by the governor of this state for a public holiday.

Nothing in this section may be construed to prevent the holding of legislative sessions or the taking of final action on any legislative matter upon any of such holidays other than Sunday. Any action heretofore taken

upon any legislative matter upon any such holiday is valid and legal for all purposes.

SECTION 2. REPEAL. Section 1-03-09 of the North Dakota Century Code is repealed.

Approved March 28, 1991
Filed March 28, 1991

CHAPTER 56

HOUSE BILL NO. 1400
(Representatives DeMers, Gabrielson, Tollefson)
(Senators Schoenwald, Ingstad, Keller)

WORKERS' MEMORIAL DAY

AN ACT to create and enact a new section to chapter 1-03 of the North Dakota Century Code, relating to the annual observance of workers' memorial day.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 1-03 of the North Dakota Century Code is created and enacted as follows:

Workers' memorial day. The twenty-eighth day of April of each year is designated as workers' memorial day in remembrance of American workers who have been killed, injured, or diseased on the job.

Approved April 2, 1991
Filed April 4, 1991