

STATE GOVERNMENT

CHAPTER 561

SENATE BILL NO. 2284
(Senator Tallackson)
(Representatives Skjerven, Gorder)

DEVELOPMENTAL CENTER LAND TRANSFER

AN ACT to amend and reenact sections 54-01-05.2 and 54-01-05.5 of the North Dakota Century Code, relating to sale or exchange of state land; to authorize the director of the department of human services to transfer title and convey certain land at the state developmental center at Grafton to the city of Grafton; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. STATE DEVELOPMENTAL CENTER AT GRAFTON LAND TRANSFER AUTHORIZED. The director of the department of human services may transfer title and convey the following property to the city of Grafton for the respective purchase prices:

1. A parcel consisting of the east half of the southeast quarter of section fourteen, township one hundred fifty-seven north of range fifty-three west, except right of way, containing 78.02 acres, more or less. The purchase price of this parcel is \$105,000.
2. A parcel consisting of the northwest quarter of the southeast quarter and the northeast quarter of the southwest quarter of section fourteen, township one hundred fifty-seven north of range fifty-three west, containing 80.0 acres, more or less, subject to a lease of ten acres for the midcontinent cable company tower. The purchase price of this parcel is \$95,000.

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

SECTION 2. AMENDMENT. Section 54-01-05.2 of the North Dakota Century Code is amended and reenacted as follows:

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

right to reject any and all bids. No land may be sold at auction for less than the appraised value. In addition to the purchase price at auction, the buyer must pay the cost of preparing the land for sale. For a land sale or exchange when the value of the land is not more than one hundred thousand dollars, one appraisal must be obtained, and when the value of the land is in excess of one hundred thousand dollars, two appraisals must be obtained. If more than one appraisal is obtained, the appraised value of the land is the average of the two appraisals. If no bid is received on the land at public auction, the land may be sold for not less than ninety percent of the appraised value.

SECTION 3. AMENDMENT. Section 54-01-05.5 of the North Dakota Century Code is amended and reenacted as follows:

54-01-05.5. Bills authorizing sale or exchange of state-owned land to be prefiled - Written report to accompany bill - Commissioner of university and school lands to give opinion Opinion.

1. Every legislative bill authorizing the sale or exchange of state-owned land must be prefiled with the legislative assembly by the first day of the organizational session in December of each even-numbered year. Legislative bills authorizing the sale of state-owned land must provide for sale at public auction.
2. A written report from the The supervising agency, board, commission, department, or institution owning or controlling the land must accompany each legislative bill and must include the following proposed by a bill introduced in the legislative assembly to be sold or exchanged shall prepare a written report that includes:
 - a. An analysis of the type of land involved.
 - b. A title opinion and an updated abstract of title for land sales or exchanges.
 - c. A determination whether the land is needed for present or future uses of the agency, board, commission, department, or institution.
 - d. A description of the party or parties, if known, who are interested in the land and the purposes for which the land is desired.
 - e. A determination whether it is or is not in the best interests of the state to sell or exchange the land.
 - f. One appraisal for land sales or exchanges when the value of the land is fifty thousand dollars or less; and two or more appraisals when the value of the land is in excess of fifty thousand dollars.
 - g. d. A map showing the boundaries of the land proposed to be sold or exchanged; the present ownership of lands adjacent to such land; and the purposes for which the adjacent lands are used. The legal description of the land shall be determined by a land surveyor registered pursuant to chapter 43-19-1.

- 3- 2. The commissioner of university and school lands shall review each legislative bill proposing the sale or exchange of state-owned land and the written report from the supervising agency, board, commission, department, or institution prior to the beginning of the regular legislative session. The commissioner shall then issue a written opinion to the standing committee of the legislative assembly to which the bill is initially referred concerning the proposed land sale or exchange and, in doing so, shall consider the "highest and best use" of the land as defined by section 15-02-05.1.
- 4- 3. If a legislative bill required to be prefiled pursuant to this section becomes law, land to be sold must be offered at public auction conducted by the commissioner of university and school lands pursuant to rules promulgated by the commissioner. No land may be sold at auction for less than appraised value. The buyer or buyers shall additionally pay the cost of preparing the land for sale as determined by the commissioner. If more than one appraisal is provided, the appraised value of the land to be sold must be as determined by the commissioner, but may not be less than the lowest appraisal or higher than the highest appraisal.
- 5- All rules adopted by the The commissioner under may adopt rules to provide for administration of this section must be adopted pursuant to chapter 20-32 and must be published in the North Dakota Administrative Code.

SECTION 4. PROCEEDS - APPROPRIATION. The proceeds from the sale of land at the state developmental center at Grafton must be deposited in the lands and minerals trust fund. There is hereby appropriated \$200,000, or so much thereof as may be necessary, from the lands and minerals trust fund, to the department of human services for capital improvements or demolition of existing buildings at the state developmental center at Grafton for the biennium beginning July 1, 1991, and ending June 30, 1993.

Approved April 5, 1991
Filed April 8, 1991

CHAPTER 562

HOUSE BILL NO. 1380
(Representatives Martinson, Carlisle, Mutzenberger)
(Senators Satrom, Evanson)

BURLEIGH COUNTY LAND SALE

AN ACT to authorize the director of institutions to sell and convey certain land belonging to the state of North Dakota to Burleigh County for use as fairgrounds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Sale of land - Proceeds. The director of institutions may sell and convey the following property to Burleigh County, North Dakota for use as fairgrounds:

All that part of the southeast quarter of section 2, township 138 north, range 80 west of the fifth principal meridian, Burleigh County, North Dakota that lies southeasterly of the Bismarck Expressway right of way and north of old-old highway 10 and its connection with Bismarck Expressway, containing 52.74 acres, more or less.

If as a result of passage of Senate Bill No. 2245 by the fifty-second legislative assembly the office of the director of institutions ceases to exist, the office of management and budget shall perform the powers and duties of the director of institutions under this Act.

The property must be sold at not less than fair market value, based upon a current independent appraisal. The state must reserve all mineral rights now held by the state in and under the premises. Sections 54-01-05.2 and 54-01-05.5 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.

The commissioner of university and school lands or the commissioner's designee shall provide technical assistance and advice to the director of institutions in any transaction under this Act. The attorney general shall review and approve as to form and legality all legal documents, papers, and instruments required by any transaction under this Act.

Approved April 8, 1991
Filed April 8, 1991

CHAPTER 563

HOUSE BILL NO. 1611
 (Representatives Kloubec, Schneider)
 (Senators Heigaard, Nelson)
 (Approved by the Committee on Delayed Bills)

LEGISLATIVE REDISTRICTING

AN ACT to amend and reenact section 54-03-01.5 of the North Dakota Century Code, relating to legislative apportionment requirements; and to provide a statement of legislative intent.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-03-01.5 of the North Dakota Century Code is amended and reenacted as follows:

54-03-01.5. Legislative apportionment requirements. A legislative apportionment plan based on any census taken after ~~1979~~ 1989 must meet the following requirements:

1. The senate must consist of ~~forty to fifty-four~~ forty-nine members and the house must consist of ~~eighty to one hundred eight ninety-eight~~ members.
2. Except as provided in subsection 3, one senator and two representatives must be apportioned to each senatorial district. Representatives may be elected at large or from subdistricts.
3. Multimember senate districts providing for two senators and four representatives are authorized only when a proposed single member senatorial district includes a federal facility or federal installation, containing over two-thirds of the population of the proposed single member senatorial district.
4. Legislative districts and subdistricts must be compact and of contiguous territory.
5. Legislative districts must be as nearly equal in population as is practicable. Population deviation from district to district must be kept at a minimum. The total population variance of all districts, and subdistricts if created, from the average district population may not exceed recognized constitutional limitations.

SECTION 2. LEGISLATIVE INTENT. It is the intent of the legislative assembly that any legislative council committee conducting a legislative apportionment study during the 1991-92 interim will consider apportionment plans that provide for at least forty-nine senatorial districts but not more than fifty-three senatorial districts.

Approved April 16, 1991
 Filed April 18, 1991

CHAPTER 564

SENATE BILL NO. 2071
(Legislative Council)
(Interim Legislative Management Committee)

LEGISLATIVE VOUCHER APPROVAL

AN ACT to amend and reenact section 54-03-11 of the North Dakota Century Code, relating to approval of vouchers for payment of legislative costs and expenses; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-03-11 of the North Dakota Century Code is amended and reenacted as follows:

54-03-11. Payment of legislative costs and expenses - President pro tempore of the senate and speaker of the house jointly approve vouchers. During any legislative session, the speaker of the house and the president pro tempore of the senate, or persons designated by the speaker and the president pro tempore, ~~shall~~ on behalf of the legislative assembly and without further legislative action, jointly shall approve vouchers for payment of compensation, salaries, and other costs of operation and expenses of the legislative assembly, its committees, and its employees within the limits of ~~special, general, or standing~~ legislative appropriations.

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

Approved March 14, 1991
Filed March 15, 1991

CHAPTER 565

SENATE BILL NO. 2072
(Legislative Council)
(Interim Legislative Management Committee)

SENATE AND HOUSE SECRETARY AND CLERK DUTIES

AN ACT to amend and reenact section 54-03-12 of the North Dakota Century Code, relating to the duties of the secretary of the senate and the chief clerk of the house of representatives; to repeal section 54-03-13 of the North Dakota Century Code, relating to the duties of the secretary of the senate and the chief clerk of the house; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-03-12 of the North Dakota Century Code is amended and reenacted as follows:

54-03-12. Duties of secretary of senate and chief clerk of house ~~during legislative session~~. The secretary of the senate and chief clerk of the house of representatives shall-

- 1- ~~Keep correct journals of the proceedings of their respective houses.~~
- 2- ~~Have the custody of all records, accounts, and other papers committed to them.~~
- 3- ~~At the close of each session of the legislative assembly, deposit for safekeeping in the office of the secretary of state, all books, bills, documents, resolutions, and papers in the possession of the legislative assembly, correctly labeled, folded, and classified. The journals need not be deposited until they are completed fully and are indexed.~~
- 4- ~~Perform such other perform the duties as are assigned required of them by their respective houses the rules of the senate and the house of representatives, as appropriate.~~

SECTION 2. REPEAL. Section 54-03-13 of the North Dakota Century Code is repealed.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 14, 1991
Filed March 15, 1991

CHAPTER 566

HOUSE BILL NO. 1074
(Representative Stofferahn)
(Senator Wogsland)

LEGISLATOR EXPENSE ELECTION ELIMINATED

AN ACT to amend and reenact section 54-03-20 of the North Dakota Century Code, to delete the option of members of the legislative assembly to receive meals reimbursement in lieu of a portion of compensation and to receive monthly amounts as reimbursement for uncompensated expenses rather than as compensation; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-03-20 of the North Dakota Century Code is amended and reenacted 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 during any organizational, special, or regular legislative session. ~~Each member of the legislative assembly whose home is ten miles (16.09 kilometers) 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 with the additional limitation that reimbursement for travel by 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 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 must 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 must 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. ~~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 may 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 must 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)].

SECTION 2. EFFECTIVE DATE. This Act is retroactively effective to January 1, 1991.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 11, 1991
Filed March 11, 1991

CHAPTER 567

HOUSE BILL NO. 1056
(Legislative Council)
(Interim Legislative Management Committee)

ENGROSSING AND ENROLLING

AN ACT to repeal chapter 54-04 of the North Dakota Century Code, relating to the engrossing and enrolling of legislative bills and resolutions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Chapter 54-04 of the North Dakota Century Code is repealed.

Approved March 11, 1991
Filed March 11, 1991

CHAPTER 568

SENATE BILL NO. 2244
(Committee on State and Federal Government)
(At the request of the Lieutenant Governor)

STATE AGENCY INFORMATION SHARING

AN ACT to provide for the sharing of information among state agencies and with private entities; to create and enact a new section to chapter 54-34 of the North Dakota Century Code, relating to the provision and distribution of information by the economic development commission; and to amend and reenact sections 34-05-03, 52-01-03, 57-39.2-23, and 65-04-15 of the North Dakota Century Code, relating to the provision and distribution of information by the commissioner of labor, unemployment compensation bureau of job service North Dakota, the tax commissioner, and the workers compensation bureau.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 34-05-03 of the North Dakota Century Code is amended and reenacted as follows:

34-05-03. Officials and employers to furnish certain information - Penalty. All public officers and all employers shall furnish to the commissioner of labor such information as ~~he~~ the commissioner may request relating to their respective offices or businesses. The information obtained must be preserved, systemized, and tabulated by the commissioner. Information concerning the business or affairs of any person may not be divulged or made public by the commissioner or anyone in the employ of ~~his~~ the commissioner's office; provided, that the commissioner may provide a list of the names and addresses of employers to other agencies or to a private entity for the purpose of jointly publishing or distributing publications or other information as provided in section 3 of this Act. Any information so provided may only be used for the purpose of jointly publishing or distributing publications or other information as provided in section 3 of this Act. Any officer, any employer, and any operator or manager of any establishment wherein persons are employed, who fails or refuses to furnish the commissioner with the information ~~asked for by him~~ requested under the provisions of this section, is guilty of a class B misdemeanor. No prosecution may be commenced for a violation of the provisions of this section relating to the furnishing of information until a second blank has been mailed to the defaulting officer or employer and ~~he~~ that person has been given twenty days to complete and return the same.

* SECTION 2. AMENDMENT. Section 52-01-03 of the North Dakota Century Code is amended and reenacted as follows:

52-01-03. Disclosure of information. Except as otherwise provided in this section, information obtained from any employing unit or individual pursuant to the administration of the North Dakota Unemployment Compensation Law and determinations as to the benefit rights of any individual must be

* NOTE: Section 52-01-03 was also amended by section 34 of Senate Bill No. 2058, chapter 95.

held confidential and may not be disclosed or be open to public inspection in any manner revealing the individual's or employing unit's identity. Any claimant or ~~his~~ claimant's legal representative must be supplied with information from the records of the job insurance division, to the extent necessary for the proper presentation of ~~his~~ the claimant's claim in any proceeding under the North Dakota Unemployment Compensation Law with respect to such claim. Subject to such restrictions as the bureau by regulations rule may prescribe, such information may be made available to any agency of this or any other state, or any federal agency, charged with the administration of any unemployment compensation law or the maintenance of a system of public employment offices, or the bureau of internal revenue of the United States department of the treasury, and information obtained in connection with the administration of the employment service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service. Upon a request, the bureau shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under the North Dakota Unemployment Compensation Law. The bureau may request the comptroller of the currency of the United States to cause an examination of the correctness of any return or report of any national banking association, rendered pursuant to the North Dakota Unemployment Compensation Law, and in connection with such request, may transmit any such report or return to the comptroller of the currency of the United States as provided in subsection c of section 3305 of the federal Internal Revenue Code. The bureau shall request and exchange information for purposes of income and eligibility verification to meet the requirements of section 1137 of the Social Security Act.

The bureau may provide the workers compensation bureau, the state labor commissioner, the state economic development commission, and the state tax commissioner with information obtained pursuant to the administration of the North Dakota Unemployment Compensation Law. Any information so provided must may be used only for the purpose of administering the duties of the workers compensation bureau, the state labor commissioner, the state economic development commission, and the state tax commissioner. The bureau may provide any state agency or a private entity with the names and addresses of employing units for the purpose of jointly publishing or distributing publications or other information as provided in section 3 of this Act. Any information so provided may only be used for the purpose of jointly publishing or distributing publications or other information as provided in section 3 of this Act.

Whenever the bureau obtains information on the activities of a contractor doing business in this state of which officials of the secretary of state, workers compensation bureau, or the tax commissioner may be unaware and that may be relevant to duties of those officials, the bureau shall provide any relevant information to those officials for the purpose of administering their duties.

The bureau shall request and exchange information as required of the bureau under federal law with any specified governmental agencies. Any information so provided may be used only for the purpose of administering the duties of such governmental agencies.

SECTION 3. Joint publication and distribution of information by state agencies. Any state agency may cooperate with any other state agency to jointly publish and distribute information and may arrange to have the joint publication or distribution, or both, coordinated by a private entity. Any state agency may provide information it has collected or developed, including mailing lists, to each other or to any private entity for the purpose of distributing jointly or individually issued publications or other information.

SECTION 4. A new section to chapter 54-34 of the North Dakota Century Code is created and enacted as follows:

Cooperation with other agencies or private entities to jointly publish or mail publications. The economic development commission may cooperate with other state agencies or with a private entity for the purpose of jointly publishing or distributing information or publications as provided in section 3 of this Act.

SECTION 5. AMENDMENT. Section 57-39.2-23 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

The commissioner ~~is hereby authorized to may~~ furnish to the workers compensation bureau or to the job insurance division of job service North Dakota upon request of either a list or lists of holders of permits issued pursuant to the provisions of this chapter or chapter 57-40.2, together with the addresses and tax department file identification numbers of such permit holders; provided, that any such list shall be used by the bureau to which it is furnished only for the purpose of administering the duties of such bureau. The commissioner may furnish to any state agency or to a private entity a list of names and addresses of holders of permits issued pursuant to this chapter or chapter 57-40.2 for the purpose of jointly publishing or distributing publications or other information pursuant to section 3 of this Act. Any information so provided may only be used for the purpose of jointly publishing or distributing publications or other information as provided in section 3 of this Act. The commissioner, or any person having an administrative duty under this chapter, is hereby authorized to may announce that a permit has been revoked.

* SECTION 6. AMENDMENT. Section 65-04-15 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

65-04-15. Information in employer's reports confidential - Penalty if employee of bureau divulges information. The information contained in an employer's report is for the exclusive use and information of the bureau in the discharge of its official duties and is not open to the public nor usable in any court in any action or proceeding pending therein unless the bureau is a party thereto. The information contained in the report, however, may be tabulated and published by the bureau in statistical form for the use and information of the state departments and of the public. Anyone who is convicted under section 12.1-13-01 is disqualified from holding any office or employment with the bureau.

The workers compensation bureau may, upon request of the state tax commissioner or the secretary of state, furnish to them a list or lists of employers showing only the names, addresses, and workers compensation bureau file identification numbers of such employers; provided, that any such list so furnished must be used by the tax commissioner or the secretary of state only for the purpose of administering their duties. The bureau may provide the commissioner of labor or job service North Dakota with information obtained pursuant to the administration of this title. Any information so provided must be used only for the purpose of administering the duties of the commissioner of labor or job service North Dakota. Whenever the bureau obtains information on activities of a contractor doing business in this state of which officials of the secretary of state, job service North Dakota, or tax commissioner may be unaware and that may be relevant to the duties of those officials, the bureau shall provide any relevant information to those officials for the purpose of administering their duties. The bureau may provide any state agency or a private entity with a list of names and addresses of employers for the purpose of jointly publishing or distributing publications or other information pursuant to section 3 of this Act. Any information so provided may only be used for the purpose of jointly publishing or distributing publications or other information as provided in section 3 of this Act.

Approved March 25, 1991
Filed March 26, 1991

* NOTE: Section 65-04-15 was also amended by section 36 of Senate Bill No. 2206, chapter 714.

CHAPTER 569

HOUSE BILL NO. 1107
(Committee on State and Federal Government)
(At the request of the Office of Management and Budget)

STATE EMPLOYEE EXPENSE CLAIMS

AN ACT to amend and reenact section 54-06-09 of the North Dakota Century Code, relating to the filing of claims for mileage and travel expenses of state officers and employees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-06-09 of the North Dakota Century Code is amended and reenacted as follows:

54-06-09. Mileage and travel expense of state officers and employees. State officials, whether elective or appointive, and their deputies, assistants, and clerks, or other state employees, entitled by law to be reimbursed for mileage or travel expense, must be allowed and paid for mileage and travel expense the following amounts:

1. The sum of twenty cents per mile [1.61 kilometers] for each mile [1.61 kilometers] actually and necessarily traveled in the performance of official duty when such travel is by motor vehicle or twenty-seven cents per mile [1.61 kilometers] if the travel is by truck, the use of which is required by the employing subdivision, agency, bureau, board, or commission. The sum of thirty-five cents per mile [1.61 kilometers] for each mile [1.61 kilometers] actually and necessarily traveled in the performance of official duty when such travel is by private airplane. Mileage by private aircraft must be computed by actual air mileage when only one state employee or official is traveling; if two or more state employees or officials are traveling by private aircraft, the actual mileage must be based on the road mileage between the geographical points. Reimbursement for private airplane travel must be calculated as follows:
 - a. If reimbursement is for one properly authorized and reimbursable passenger, reimbursement must be paid on a per-mile basis as provided in this subsection.
 - b. If reimbursement is claimed for a chartered private aircraft, reimbursement may not exceed the cost of regular coach fare on a commercial flight, if one is scheduled between the point of departure, point of destination, and return, for each properly authorized and reimbursable passenger on the charter flight; or, where there is no such regularly scheduled commercial flight, the actual cost of the charter.

No reimbursement may be paid for leased private aircraft, except for leased or rented private aircraft from a recognized fixed base aviation operator who is in the business of leasing and renting private aircraft and is located on an airport open for public use. In order to be reimbursed for the chartering of a private aircraft pursuant to subdivision b, the charter agreement must receive prior approval from the director of the office of management and budget who shall take comparable travel costs and the savings of time into account in making his decision. If only one person shall engage in such travel in a motor vehicle exceeding at any geographical point one hundred fifty miles [241.40 kilometers] beyond the borders of this state, reimbursement must be limited to eighteen cents per mile [1.61 kilometers] for the out-of-state portion of the travel beyond the first one hundred fifty miles [241.40 kilometers]. When official travel is by motor vehicle or airplane owned by the state or by any department or political subdivision thereof, no allowance may be made or paid for such mileage.

2. Except as provided in subsection 1, when travel is by rail or certificated air taxi commercial operator or other common carrier, including regularly scheduled flights by airlines, the amount actually and necessarily expended therefor in the performance of official duties.
3. Notwithstanding the other provisions of this section, state employees permanently located outside the state or on assignments outside the state for an indefinite period of time, exceeding at least thirty consecutive days, must be allowed and paid twenty cents per mile [1.61 kilometers] for each mile [1.61 kilometers] actually and necessarily traveled in the performance of official duty when such travel is by motor vehicle, and the one-hundred-fifty-mile [241.40-kilometer] restriction imposed by subsection 1 does not apply.

Before any allowance for any such mileage or travel expenses may be made, the official, deputy, assistant, clerk, or other employee shall file with the director of the office of management and budget employee's department, institution, board, commission, or agency an itemized statement showing the mileage traveled, the hour of departure and return, the days when and how traveled, the purpose thereof, and such other information and documentation as may be prescribed by rule of the office of the budget or specifically requested by such office, verified by his certification employee's department, institution, board, commission, or agency. The statement must be submitted to the office of the budget employee's department, institution, board, commission, or agency for approval and must be paid only when approved by the office of the budget employee's department, institution, board, commission, or agency.

Approved March 11, 1991
Filed March 11, 1991

CHAPTER 570

SENATE BILL NO. 2324
(Senators Satrom, Stenehjelm)
(Representative DeMers)

SICK LEAVE BENEFIT PAYMENT

AN ACT to amend and reenact section 54-06-14 of the North Dakota Century Code, relating to partial payment of sick leave benefits upon leaving the employ of the state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

54-06-14. Annual leave and sick leave for state employees. Annual leave and sick leave 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 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 adopted by the employing unit. Sick leave for an employee entitled 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 adopted by the employing unit. Annual leave must be compensated for on the basis of full pay for the number of working days' leave credited to the employee. Sick leave 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, 45-39-1, or under the alternative retirement program provided by the state board of higher education, with at least ten continuous years of state employment 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 leaves the employ of 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 employs persons subject to this section shall formulate and adopt rules governing the granting of annual leave and sick leave which will effectuate the purpose of this section and best suit the factors of employment of that employing unit. Each employing unit shall file with the office of management and budget a copy of the rules adopted, including any amendments or additions to the rules.~~

Approved April 16, 1991
Filed April 18, 1991

CHAPTER 571

HOUSE BILL NO. 1322
(Representatives Oban, Wardner, Dalrymple)
(Senators Maxson, Evanson, Graba)

PUBLIC EMPLOYEE PERSONNEL RECORDS

AN ACT to provide for administration of public employee personnel records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Public employee personnel records - Administration. The official personnel file on each employee is the file maintained under the supervision of the agency head or the agency head's designated representative.

1. No documents that address an employee's character or performance may be placed in the file unless the employee has had the opportunity to read the material. The employee must acknowledge that the employee has read the material by signing the actual copy to be filed, with the understanding that the signature merely signifies that the employee has read the material to be filed and does not necessarily indicate agreement with its content. If the employee refuses to sign the copy to be filed, the agency head or the agency head's designated representative shall indicate on the copy that the employee was shown the material, was requested to sign the material to verify that the material had been read, and that the employee refused to sign the copy to be filed. In the presence of the employee and a witness, the agency head or the agency head's designated representative shall sign and date a statement verifying the refusal of the employee to sign the copy to be filed. The material must then be placed in the file.
2. The employee has the right to answer any material filed, and any answer must be attached to the file copy. The employee's answer to material filed may not be used as the basis for any subsequent adverse personnel action. If any material is found to be without merit or unfounded through an established grievance procedure, it must be immediately removed from the file and may not be used in any subsequent actions or proceedings against the employee.
3. The employee or the employee's designated representative must be permitted to examine the employee's official personnel file by appointment during normal business hours.
4. No anonymous letters or materials may be placed in the employee's file.
5. The employee must be permitted to reproduce at the employee's expense any material in the employee's file.

6. An employee may file a grievance regarding nonevaluation material placed in the employee's personnel file. A grievance is limited to an internal agency grievance unless such material is merged into a disciplinary proceeding.
7. This Act does not prohibit administrators from maintaining written notes or records of an employee's performance separate from the personnel file for the purpose of preparing evaluations or possible disciplinary action.
8. Administrators are encouraged to place in the employee's file information of a positive nature, including any such material received from outside competent and responsible sources, indicating special competencies, achievements, performances, or contributions of a professional or civic nature.

SECTION 2. Access. A record of access must be maintained by the employing agency and must be provided to the employee when the employee examines the employee's file.

SECTION 3. Public employee - Definition. As used in this Act, the term "public employee" means any person employed by the state and does not include persons employed by any political subdivision of the state.

Approved March 27, 1991
Filed March 28, 1991

CHAPTER 572

HOUSE BILL NO. 1558
(Representatives Wentz, Larson, DeMers)
(Senators Lips, Mushik, Robinson)

CRIME VICTIMS' PROGRAMS

AN ACT to establish a crime victims' account; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Crime victims' account - Administration. The agency designated by the governor to administer the victims' assistance grants under the federal Victims of Crime Act of 1984 [42 U.S.C. 10601 et seq.] shall administer a crime victims' account in the state treasury. The moneys in the account must be distributed through grants to the crime victims' reparations program; private, nonprofit domestic violence or sexual assault programs; and to victim and witness advocacy programs whose primary function is to provide direct services to victims of and witnesses to crimes. The administering agency shall establish procedures for the distribution of grants.

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 \$200,000, or so much thereof as may be necessary, to the agency designated to administer the crime victims' account, for the purpose of distributing grants, for the biennium beginning July 1, 1991, and ending June 30, 1993.

SECTION 3. APPROPRIATION - TRANSFER. There is hereby transferred from any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$300,000, or so much thereof as may be necessary, to the domestic violence prevention fund. There is hereby appropriated out of any moneys in the domestic violence prevention fund, not otherwise appropriated, the sum of \$600,000, or so much thereof as may be necessary, to the state department of health and consolidated laboratories for the purpose of administering grants from that fund for the biennium beginning July 1, 1991, and ending June 30, 1993. The state treasurer shall transfer moneys pursuant to this appropriation as requested by the state health officer.

Approved April 16, 1991
Filed April 18, 1991

CHAPTER 573

SENATE BILL NO. 2204
(Committee on State and Federal Government)
(At the request of the Centennial Commission)

CENTENNIAL TREES COMMISSION

AN ACT to provide for a centennial trees commission, to establish duties of the centennial trees commission, to create a trust fund, and to authorize local governments to participate with the centennial trees commission; to amend and reenact section 3 of chapter 27 of the 1989 Session Laws of North Dakota, relating to the effective date of section 2 of chapter 27 of the 1989 Session Laws of North Dakota; to repeal section 1 of chapter 27 of the 1989 Session Laws of North Dakota; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Centennial trees commission. There is hereby created the centennial trees commission which consists of the lieutenant governor and six additional members appointed by the governor for two-year terms. The terms of three members expire on June thirtieth of each year or when successors are duly appointed and qualified. Vacancies must be filled by appointment of the governor.

Duties of commission. To work to achieve the goal of planting one hundred million trees during the decade of the 1990's, the commission may:

1. Expend funds within the limits of legislative appropriations, together with the interest therefrom, which are received from governmental and private entities, or granted for the centennial trees program;
2. Make grants to further the purpose of the program;
3. Select and appoint personnel, establish their salaries, and provide for their expenses, to carry out the policies and directives of the commission;
4. Create advisory committees for special purposes and reimburse the members for travel expenses in the same manner as allowed for state employees; and
5. Cooperate with federal, state, and local agencies and private organizations.

Centennial trees program trust fund. A special fund known as the centennial trees program trust fund is established in the state treasury. Income earned on moneys in the fund must be credited to the fund. Moneys in the fund may be spent by the centennial trees commission within the limits of

legislative appropriations for defraying the costs associated with the centennial trees program.

Authority for local governments to participate. Any political subdivision of the state may provide financial aid or supportive services to the centennial trees program.

Commission to adopt rules. The centennial trees commission may adopt rules to implement the provisions of this chapter.

Biennial report to the legislative assembly. The centennial trees commission shall present a report each biennium to the legislative assembly which must include information on the activities and the revenues and expenses of the commission.

SECTION 2. AMENDMENT. Section 3 of chapter 27 of the 1989 Session Laws of North Dakota is amended and reenacted as follows:

SECTION 3. EFFECTIVE DATE - EXPIRATION DATE. This Act is effective for taxable years beginning after December 31, 1988, and is ineffective for taxable years beginning after December 31, ~~1998~~ 2000.

SECTION 3. REPEAL. Section 1 of chapter 27 of the 1989 Session Laws of North Dakota is repealed.

SECTION 4. EXPIRATION DATE. Except as provided in section 2 of this Act, this Act is effective through June 30, 2001.

Approved April 5, 1991
Filed April 8, 1991

CHAPTER 574

HOUSE BILL NO. 1584
(Linderman, Thorpe)

SECRETARY OF STATE FEES AND SERVICE

AN ACT to create and enact a new subsection to section 54-09-04 and a new section to chapter 54-09 of the North Dakota Century Code, relating to fees for services performed by the secretary of state and to service of process upon the secretary when an agent cannot be found; and to amend and reenact subsection 5 of section 54-09-04 of the North Dakota Century Code, relating to fees for searching records and archives of the state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 54-09-04 of the North Dakota Century Code is amended and reenacted as follows:

5. For searching records and archives of the state, ~~two~~ five dollars.

SECTION 2. A new subsection to section 54-09-04 of the North Dakota Century Code is created and enacted as follows:

For filing any process, notice, or demand for service, twenty dollars.

SECTION 3. A new section to chapter 54-09 of the North Dakota Century Code is created and enacted as follows:

Service of process on secretary of state if agent not found - Procedure - Time for answering process. If an agent other than the secretary of state has been appointed for receipt of service, but the affidavit of a sheriff or of an adult who is not a party to a proceeding establishes that diligent inquiry has been made and that personal service cannot be accomplished upon any registered agent, officer, or superintending, managing, or general agent of an entity, then the secretary of state may be deemed the agent of the entity for receiving service of process. The party serving process, notice, or demand must provide a copy of the affidavit of a sheriff or of an adult who is not a party to the proceeding that service cannot be accomplished and must file with the secretary of state an original and two copies of the process, notice, or demand, together with the fees required by section 54-09-04. Service on the secretary of state constitutes personal service on the entity. The secretary of state shall immediately forward a copy of the sheriff or other adult's affidavit and of the process, notice, or demand by registered mail addressed to the entity to be served at its registered office or last address on file with the secretary of state. Notwithstanding a shorter period of time specified in the process, notice, or demand, the entity has thirty days after the secretary of state receives the documents to respond to the process, notice, or demand.

Approved April 2, 1991
Filed April 4, 1991

CHAPTER 575

SENATE BILL NO. 2069
(Legislative Council)
(Interim Legislative Audit and Fiscal Review Committee)

STATE AGENCY AUDITS

AN ACT to amend and reenact section 54-10-01 of the North Dakota Century Code, relating to the powers and duties of the state auditor; and to provide for a transition period.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. Be vested with the duties, powers, and responsibilities involved in performing the postaudit of all financial transactions of the state government, detecting and reporting any defaults, and determining that expenditures have been made in accordance with law and appropriation acts.
2. ~~Be vested with the duties, powers, and responsibilities involved in making a complete examination once every two years of the books, records, accounting methods, and internal controls of any and all~~ Perform or provide for the audit of the general purpose financial statements and a review of the material included in the comprehensive annual financial report of the state and perform or provide for the audits and reviews of state agencies, including the occupational and or 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 audit or review each state agency once every two years. The state auditor shall determine the contents of the audits and reviews of state agencies. The state auditor may conduct any work required by the federal government. The state auditor shall charge an amount equal to the fair value cost of the audit and other services rendered plus actual costs incurred by the state auditor to all agencies that receive and expend moneys from other than the general fund. This charge may be reduced for any agency that receives and expends both general fund and nongeneral fund moneys. The state auditor shall require any agency in the executive branch of government, which includes an institution of higher education, to pay for a contract for the audit or review of that agency. Except for an audit or review of an occupational or professional board, the state auditor shall execute any contract under this subsection. The governing board of any occupational and or 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~~ If the report is in the form and style as prescribed by the state auditor, the state auditor may not audit such that board or commission. Audits and reviews may be conducted at more frequent intervals if requested by the governor or legislative audit and fiscal review committee.

3. Prepare annually a report identifying all outstanding bonds and other evidences of indebtedness of the state of North Dakota. The state auditor shall include in the report the principal and accrued interest amounts of each outstanding debt issue. Information that is available in audit reports prepared by private firms may be used when preparing the report. Perform or provide for performance audits of state agencies as determined necessary by the state auditor or the legislative audit and fiscal review committee. A performance audit must include reviewing elements of compliance, economy and efficiency, and program results to determine whether an agency is complying with applicable laws and legislative intent and is managing its resources efficiently, and whether the agency's programs are achieving desired results.
4. Be responsible for the above functions and ~~shall~~ report thereon to the governor and the office of management and budget as prescribed by section 54-06-04 or more often as circumstances may require.
5. Perform such other duties as ~~are or may be~~ prescribed by law.

SECTION 2. TRANSITION PERIOD. An audit of a state agency which includes a period ending before July 1, 1990, must be completed under the laws and rules in effect during that period.

Approved April 17, 1991
Filed April 18, 1991

CHAPTER 576

SENATE BILL NO. 2070
(Legislative Council)
(Interim Legislative Audit and Fiscal Review Committee)

STATE AUDITOR FEES AND OPERATING ACCOUNT

AN ACT to amend and reenact section 54-10-14 of the North Dakota Century Code, relating to political subdivision audits and audit fees; and to provide an exemption to the provisions of section 54-44.1-11 regarding cancellation of unexpended appropriation authority.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 54-10-14 of the North Dakota Century Code is amended and reenacted as follows:

54-10-14. Political subdivisions - Audits - Fees - Alternative audits and reports. The state auditor, by 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. 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.

* NOTE: Section 54-10-14 was also amended by section 1 of House Bill No. 1268, chapter 577.

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 deemed necessary in addition to the report. The state auditor may charge a political subdivision a fee for the costs of reviewing a financial report.

The governing board of any political subdivision may provide for an audit by a certified public accountant or licensed public accountant and 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 of the audit report requested by the state auditor must be filed with the state auditor by the public accountant performing the audit when the audit report is delivered to the political subdivision. The state auditor may charge the public accountant a fee for the related costs of reviewing the audit report. The governing board of the subdivision may not pay the audit fee until evidence of 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 the subdivisions disclosed by the audit reports, and failure to make the corrections shall result in audits being resumed by the state auditor until the irregularities, procedures, or illegal actions are corrected and fees for 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 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 deposited in a state auditor operating account to be used by the state auditor, within the limits of legislative appropriation, for expenses relating to political subdivision audits.

SECTION 2. EXEMPTION - APPROPRIATION AUTHORITY TRANSFER. The state auditor appropriation contained in section 1 of chapter 1 of the 1989 Session Laws shall not be subject to the provisions of section 54-44.1-11 and the sum of \$100,000 of state auditor 1989-91 general fund appropriation authority is hereby authorized for transfer to the state auditor operating account. Such moneys shall be transferred during the biennium beginning July 1, 1991, and ending June 30, 1993, at the direction of the state auditor.

Approved April 16, 1991
Filed April 18, 1991

CHAPTER 577

HOUSE BILL NO. 1268
(Representatives Thompson, Whalen, Payne)
(Senator Satrom)

POLITICAL SUBDIVISION AUDIT COSTS

AN ACT to amend and reenact section 54-10-14 of the North Dakota Century Code, relating to political subdivision audits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 54-10-14 of the North Dakota Century Code is amended and reenacted as follows:

54-10-14. Political subdivisions - Audits - Fees - Alternative audits and reports. The state auditor, by 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. 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.

* NOTE: Section 54-10-14 was also amended by section 1 of Senate Bill No. 2070, chapter 576.

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 deemed necessary in addition to the report.

The governing board of any political subdivision may provide for an audit by a certified public accountant or licensed public accountant and 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 of the audit report requested by the state auditor must be filed with the state auditor by the public accountant performing the audit when the audit report is delivered to the political subdivision. The governing board of the subdivision may not pay the audit fee until evidence of the filing is furnished, unless the public accountant performing the audit has had a quality control or peer review covering governmental audits of political subdivisions or has completed a work paper review with the state auditor, in which case the governing body of the subdivision may make progress payments to the accountant. If the political subdivision makes progress payments, the governing body of the political subdivision shall retain twenty percent of each payment until evidence is furnished that the audit report has been properly filed with the state auditor. 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 the subdivisions disclosed by the audit reports, and failure to make the corrections shall result in audits being resumed by the state auditor until the irregularities, procedures, or illegal actions are corrected and fees for 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 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.

Approved March 25, 1991
Filed March 26, 1991

CHAPTER 578

HOUSE BILL NO. 1103
(Committee on Finance and Taxation)
(At the request of the State Treasurer)

STATE INVESTMENT INCOME DISPOSITION

AN ACT to create and enact a new section to chapter 15-10 of the North Dakota Century Code, relating to investment income of the state's colleges and universities; and to amend and reenact sections 6-09-07, 54-11-01, and 54-17-07 of the North Dakota Century Code, relating to investment income of the Bank of North Dakota, duties of the state treasurer with regard to receipts for deposits into the state treasury and allocation of certain investment income, and income on industrial commission deposits and investments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-09-07 of the North Dakota Century Code is amended and reenacted as follows:

6-09-07. State funds must be deposited in Bank of North Dakota - Income of the Bank. All state funds, and funds of all state penal, educational, and industrial institutions must be deposited in the Bank of North Dakota by the persons having control of such funds or must be deposited in accordance with constitutional and statutory provisions. All income earned by the Bank for its own account on state moneys that are deposited in or invested with the Bank to the credit of the state must be credited to and become a part of the revenues and income of the Bank.

SECTION 2. A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

College and university investment income. All income earned on college and university funds not deposited in the state treasury must be retained by those funds.

SECTION 3. AMENDMENT. Section 54-11-01 of the North Dakota Century Code is amended and reenacted as follows:

54-11-01. Duties of state treasurer. The state treasurer shall:

1. Receive and keep all the moneys belonging to the state not required to be received and kept by some other person.
2. Register the orders or certificates of the office of management and budget delivered to him when moneys are paid or to be paid into the treasury.
3. ~~Beliver to each person paying money into the treasury and to the office of management and budget; a duplicate~~ Prepare a receipt for

each deposit of money into the treasury. The receipt showing must show the amount, the source from which the money accrued, and the funds into which it is paid, such. The receipts to must be numbered in order. Duplicates, if requested, must be delivered to the office of management and budget and the person paying money into the treasury.

4. Pay warrants drawn by the office of management and budget and signed by the state auditor out of the funds upon which they are drawn, and in the order in which they are presented.
5. ~~Repealed by S.L. 1975, ch. 472, § 1.~~
- ~~6.~~ Keep an account of all moneys received and disbursed.
- ~~7.~~ 6. Keep separate accounts of the different funds.
- ~~7.~~ 7. Keep a record of all revenues and expenditures of state agencies and all moneys received and disbursed by the treasurer in accordance with the requirements of the state's central accounting system.
8. Receive in payment of public dues the warrants drawn by the office of management and budget and signed by the state auditor in conformity with law.
9. Redeem warrants drawn by the office of management and budget and signed by the state auditor in conformity with law, if there is money in the treasury appropriated for that purpose.
10. Report to the office of management and budget on the last day of each month the amount disbursed for the redemption of bonds and the payment of warrants during the month, such reports to show:
 - a. The date and number of each bond and warrant;
 - b. The fund out of which each was paid; and
 - c. The balance in cash on hand in the treasury to the credit of each fund.
11. At the request of either house of the legislative assembly, or of any committee thereof, give information in writing as to the condition of the treasury, or upon any subject relating to the duties of his office.
12. Submit a biennial report to the governor and the office of management and budget as prescribed by section 54-06-04. In addition to any requirements established pursuant to section 54-06-04, the report must show the exact balance in the treasury to the credit of the state. The report also must show in detail the receipts and disbursements, together with a summary thereof, the balances in the various funds at the beginning and ending of the biennium, and also must show where the funds of the state are deposited. It must be certified by the state treasurer and approved by the governor.

13. Authenticate with his official seal all writings and papers issued from his office.
14. Keep a book in which he shall enter all warrants paid, giving the name of the owner and the number and amount of each warrant.
15. Keep and disburse all moneys belonging to the state in the manner provided by law.
16. Keep his books open at all times for the inspection of the governor, the state auditor, the commissioner of banking and financial institutions, the office of management and budget, and any committee appointed to examine them by either house of the legislative assembly.
17. Unless otherwise specified by law, credit all income earned on the deposit or investment of all state moneys to the state's general fund; provided that this provision does not apply to:
 - a. Income earned on state moneys that are deposited or invested to the credit of the industrial commission or any agency, utility, industry, enterprise, or business project operated, managed, controlled, or governed by the industrial commission.
 - b. Income earned by the Bank of North Dakota for its own account on state moneys that are deposited in or invested with the Bank.
 - c. Income earned on college and university funds not deposited in the state treasury.
18. Perform such other duties as are prescribed by law.

SECTION 4. AMENDMENT. Section 54-17-07 of the North Dakota Century Code is amended and reenacted as follows:

54-17-07. Industries under the industrial commission - Income on deposits and investments. The industrial commission shall operate, manage, control, and govern all utilities, industries, enterprises, and business projects established, owned, undertaken, administered, or operated by the state of North Dakota, except those carried on in penal, charitable, or educational institutions. All income earned on state moneys that are deposited or invested to the credit of the industrial commission or any agency, utility, industry, enterprise, or business project operated, managed, controlled, or governed by the industrial commission must be added to and become a part of such moneys.

Approved April 2, 1991
Filed April 4, 1991

CHAPTER 579

SENATE BILL NO. 2301
(Senators Mushik, Holmberg)
(Representatives Hokana, Rydell)

BICENTENNIAL TRUST FUND

AN ACT to authorize the centennial commission to transfer funds to the state treasurer for the purpose of establishing a fund to be used to commemorate and celebrate North Dakota's bicentennial.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. The centennial commission shall transfer \$10,000 from its special revolving fund to the state treasurer to be placed in a bicentennial trust fund. The principal and interest of this fund must remain intact until transferred to the bicentennial commission on or after January 1, 2089. If no bicentennial commission is in existence on January 1, 2089, the money in the bicentennial trust fund must be transferred to the governor. Upon transfer to the bicentennial commission or the governor, as the case may be, the moneys in the fund may be expended to commemorate and celebrate the bicentennial of the state.

Approved March 14, 1991
Filed March 15, 1991

CHAPTER 580

SENATE BILL NO. 2595
 (Senators Freborg, Kelsh)
 (Approved by the Committee on Delayed Bills)

CHILD SEXUAL ABUSE INVESTIGATION AND PROSECUTION

AN ACT to establish a child sexual abuse investigation and prosecution team; to provide an appropriation; to provide a statement of legislative intent; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Child sexual abuse investigation and prosecution. The child sexual abuse investigation and prosecution team consists of an assistant attorney general, an agent of the state bureau of criminal investigation, and a licensed social worker employed by the department of human services. The attorney general shall appoint an assistant attorney general and an agent of the bureau of criminal investigation to the team and the executive director of the department of human services shall appoint a licensed social worker to the team. On request of any state's attorney, the team shall assist, within the limits of legislative appropriation and available staff resources, with the investigation and prosecution of child sexual abuse cases.

SECTION 2. APPROPRIATION. The sums hereinafter listed, or so much thereof as may be necessary, are hereby appropriated, out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the attorney general for the purpose of employing an assistant attorney general, a bureau of criminal investigation agent, and a clerical employee for the purposes of this Act, and to the department of human services for the purpose of employing a licensed social worker for the purposes of this Act for the period beginning July 1, 1992, and ending June 30, 1993:

AGENCY	GENERAL FUND	FEDERAL FUNDS	TOTAL
Attorney general	\$43,061	\$107,212	\$150,273
Department of human services	11,757	29,364	41,121
Total	\$54,818	\$136,576	\$191,394

SECTION 3. LEGISLATIVE INTENT. It is the intent of the legislative assembly that the general fund appropriation is made in conjunction with the availability of federal matching funds for this Act.

SECTION 4. EFFECTIVE DATE. This Act becomes effective on July 1, 1992.

Approved April 16, 1991
 Filed April 18, 1991

CHAPTER 581

HOUSE BILL NO. 1156
(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.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 54-12-14 of the North Dakota Century Code is amended and reenacted 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, amounts received through court proceedings as restitution, 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. The funds 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~~ any state criminal law or law relating to the control of drug abuse.

* NOTE: Section 54-12-14 was also amended by section 9 of Senate Bill No. 2073, chapter 600, and by section 2 of Senate Bill No. 2548, chapter 133.

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 is accountable to the legislative council, upon request, for the expenditure thereof.

Approved March 25, 1991
Filed March 26, 1991

CHAPTER 582

HOUSE BILL NO. 1163
(Committee on Finance and Taxation)
(At the request of the Office of Management and Budget)

DEPARTMENTAL PAYROLL TRANSFERS

AN ACT to repeal section 54-14-04.2 of the North Dakota Century Code, relating to the use of an electronic funds transfer system by the office of the budget for payment of departmental payrolls.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 54-14-04.2 of the North Dakota Century Code is repealed.

Approved March 18, 1991
Filed March 19, 1991

CHAPTER 583

HOUSE BILL NO. 1109
(Committee on State and Federal Government)
(At the request of the Office of Management and Budget)

VOUCHER AND CLAIM APPROVAL

AN ACT to amend and reenact section 54-14-07 of the North Dakota Century Code, relating to standard vouchers for claims against public funds and disapproval of claims.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-14-07 of the North Dakota Century Code is amended and reenacted as follows:

54-14-07. Office of the budget to make rules set policy - Standard vouchers - Disapproval of claims. In order to ensure that sufficient information is provided to verify claims and determine the exact purpose of expenditures, the office of the budget shall promulgate rules and regulations set policies which it deems necessary for an adequate accounting and shall direct the preparation of standard forms or vouchers upon which claims against any public fund must be submitted. The standard forms or vouchers must be prepared in such a manner so as to require an enumeration and description of services performed; purposes of expenditures; types of items or services purchased; number of days of per diem payments; the capacity in which per diem is claimed; and any other information which is deemed necessary or desirable. In the case of travel expenses; the office of the budget shall specifically provide by rule or regulation for certification and a method whereby adequate verification of travel allowances or expenses can be provided; and to this end it The office of the budget may direct individuals or departments to maintain adequate records which they may be called upon to produce for preaudit or postaudit purposes in order to verify any information submitted upon travel vouchers or verify the correctness and lawfulness of the expenditures. The office of the budget department, institution, board, commission, or agency to which a voucher is submitted shall disapprove all vouchers or expenditures it determines to be in error, unlawful, or in excess of the limits of legislative appropriation.

Approved March 11, 1991
Filed March 11, 1991

CHAPTER 584

SENATE BILL NO. 2168
(Committee on Appropriations)
(At the request of the Office of Management and Budget)

FUND EXPENDITURE AUTHORITY

AN ACT to create and enact a new section to chapter 54-16 of the North Dakota Century Code, relating to emergency commission authorization for acceptance and expenditure of funds received between legislative sessions; and providing an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-16 of the North Dakota Century Code is created and enacted as follows:

Commission may authorize acceptance and expenditure of moneys between sessions. The emergency commission, upon the advice of the office of management and budget and within the limits of legislative appropriation for approval under this section, may authorize state agencies, institutions, or departments, between legislative sessions, to receive and accept moneys from gifts, grants, donations, or other sources, not otherwise appropriated by the legislative assembly, for new or existing programs if the legislative assembly has not indicated an intent to reject the moneys. The emergency commission may authorize the state agency, institution, or department to expend money received under this section from the date the money becomes available until June thirtieth following the next regular legislative session.

SECTION 2. APPROPRIATION. Under section 1 of this Act, the emergency commission may approve amounts not exceeding in total for all of state government \$10,000,000, which moneys are hereby appropriated for the biennium beginning July 1, 1991, and ending June 30, 1993. The moneys are those not otherwise appropriated and for which approval to receive and expend is requested pursuant to section 1 of this Act. The office of management and budget must report to the budget section at such times as it may meet on the receipt and expenditure of funds approved by this section.

Approved April 5, 1991
Filed April 8, 1991

CHAPTER 585

SENATE BILL NO. 2462
(Senators Mushik, Evanson, Satrom)
(Representatives DeMers, Price, Oban)

HOUSING ACQUISITION PROGRAM

AN ACT to create and enact a new section to chapter 54-17 of the North Dakota Century Code, relating to the establishment of a housing acquisition program; and to amend and reenact section 54-17-07.2 of the North Dakota Century Code, relating to definitions with respect to housing acquisition and finance programs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-17-07.2 of the North Dakota Century Code is amended and reenacted as follows:

54-17-07.2. Definitions. As used in sections 54-17-07.1 through 54-17-07.7 and section 2 of this Act:

1. "Lenders" means any bank or trust company chartered by the state of North Dakota or any national banking association located in North Dakota, state or federal savings and loan association located in North Dakota, and federal housing administration approved mortgagee or other mortgage banking institutions actively engaged in home mortgage lending in North Dakota approved by the industrial commission.
2. "Multifamily housing facility" means any facility containing five or more residential dwelling units; provided, that at least twenty percent of the units in each facility must be held for occupancy by persons or families of low and moderate income for such period of time as the industrial commission may determine, and may include such related public or private facilities intended for commercial, cultural, recreational, community, or other civic purpose as the commission may approve.
3. "Persons and families of low or moderate income" means persons or families whose financial means are insufficient, taking into account such factors as the industrial commission shall deem relevant, to secure decent, safe, and sanitary housing provided by private industry without the financial assistance afforded by the housing finance programs of the commission.

SECTION 2. A new section to chapter 54-17 of the North Dakota Century Code is created and enacted as follows:

Housing acquisition program. The industrial commission may establish a program or programs to provide housing for persons of low or moderate income, through the acquisition of residential real property and related personal

property or interests therein through purchase, lease, gift, grant, bequest, or otherwise to maintain, repair, improve, sell, or convey leasehold interests in that real and personal property to, or for the benefit of, persons of low or moderate income. Property acquired under this section is subject to property and special assessment taxes in a manner consistent with and equal to other property of equal value within the respective taxing districts where the property is located. Taxes on any property acquired under this section must be paid in a timely manner for any year or pro rata portion of a year by any housing authority or housing acquisition organization holding title to the property.

Approved March 14, 1991
Filed March 15, 1991

CHAPTER 586

SENATE BILL NO. 2222
(Committee on State and Federal Government)
(At the request of the State Housing Finance Agency)

HOUSING FINANCE AGENCY MULTIPLE PROGRAMS

AN ACT to amend and reenact section 54-17-07.3 of the North Dakota Century Code, relating to the number of housing finance programs of the state housing finance agency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-17-07.3 of the North Dakota Century Code is amended and reenacted as follows:

54-17-07.3. Housing finance programs. Acting in its capacity as a state housing finance agency, the industrial commission is authorized to establish the following housing finance programs:

1. Home mortgage finance program. A program or programs to provide financing of loans made by lenders to persons or families of low and moderate income for the purchase or substantial rehabilitation of owner occupied, single family residential dwelling units, which includes mobile homes and manufactured housing.
2. Mobile home and manufactured housing finance program. A program or programs to provide financing of loans made by lenders to persons or families of low and moderate income to finance the purchase of mobile homes and manufactured housing other than on a real property mortgage basis.
3. Multifamily housing finance program. A program or programs to provide financing directly or indirectly of construction, permanent, and combined construction and permanent mortgage loans (including participations in mortgage loans) for the acquisition, construction, refurbishing, reconstruction, rehabilitation, or improvement of multifamily housing facilities.

Approved March 11, 1991
Filed March 11, 1991

CHAPTER 587

HOUSE BILL NO. 1140
(Committee on Industry, Business and Labor)
(At the request of the Housing Finance Agency)

HOME IMPROVEMENT FINANCE PROGRAM

AN ACT to create and enact a new subsection to section 54-17-07.3 of the North Dakota Century Code, relating to the creation of a home improvement finance program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 54-17-07.3 of the North Dakota Century Code is created and enacted as follows:

Home improvement finance program. A program or programs to provide full or partial, indirect financing of improvements to existing residential dwelling units.

Approved March 25, 1991
Filed March 26, 1991

CHAPTER 588

HOUSE BILL NO. 1092
(Committee on Finance and Taxation)
(At the request of the Housing Finance Agency)

MORTGAGE LOAN FINANCE PROGRAM

AN ACT to create and enact a new subsection to section 54-17-07.3 of the North Dakota Century Code, relating to the creation of a mortgage loan finance program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 54-17-07.3 of the North Dakota Century Code is created and enacted as follows:

Mortgage loan financing program. A program or programs to provide for the purchase of mortgage loans originated by lenders on residential real property in addition to such mortgage loans acquired or to be acquired under subsections 1 through 3.

Approved March 19, 1991
Filed March 19, 1991

CHAPTER 589

HOUSE BILL NO. 1480
(Representatives Tollefson, Rydell, Hanson)
(Senators Tallackson, Keller, Lips)

LIGNITE RESEARCH, DEVELOPMENT, AND MARKETING PROGRAM

AN ACT to create and enact a new subdivision to subsection 1 of section 28-32-01 and a new chapter to title 54 of the North Dakota Century Code, relating to the legislative intent of the lignite research, development, and marketing program; priority projects, processes, and activities under the lignite research, development, and marketing program; and the powers of the industrial commission in carrying out the lignite research, development, and marketing program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subdivision to subsection 1 of section 28-32-01 of the 1989 Supplement to the North Dakota Century Code is created and enacted as follows:

The industrial commission with respect to the lignite research fund except as required under section 57-61-01.5.

SECTION 2. A new chapter to title 54 of the North Dakota Century Code is created and enacted as follows:

Declaration of findings and public purpose. The legislative assembly finds and declares that North Dakota's lignite industry produces approximately thirty million tons of lignite annually, contributing to our state's and nation's energy independence by generating electricity for more than two million people in the northern great plains region and by producing synthetic natural gas from coal that heats three hundred thousand homes and businesses in eastern states, which is equivalent to over twenty thousand barrels of oil per day. The legislative assembly further finds and declares that North Dakota's lignite industry generates over seventeen thousand direct and indirect jobs for North Dakota, over one billion dollars in annual business volume and over sixty-five million dollars in annual tax revenue. The legislative assembly further finds and declares that it is an essential governmental function and public purpose to assist with the development and wise use of North Dakota's vast lignite resources by supporting a lignite research, development, and marketing program that promotes economic, efficient, and clean uses of lignite and products derived from lignite in order to maintain and enhance development of North Dakota lignite and its products; preserve and create jobs involved in the production and utilization of North Dakota lignite; ensure economic stability, growth, and opportunity in the lignite industry; and maintain a stable and competitive tax base for our state's lignite industry for the general welfare of North Dakota. The legislative assembly further finds and declares that development of North Dakota's lignite resources must be conducted in an environmentally sound

manner that protects our state's air, water, and soil resources as specified by applicable federal and state law.

Lignite research council - Compensation. The industrial commission shall consult with the lignite research council established by executive order in matters of policy affecting the administration of the lignite research fund. Members of the lignite research council may receive reimbursement from the lignite research fund for actual and necessary expenses incurred in the performance of their duties, if authorized by the industrial commission.

Priority projects, processes, and activities. In evaluating applications for funding from the lignite research fund for North Dakota's lignite research, development, and marketing program, the industrial commission and lignite research council shall give priority to those projects, processes, or activities that will preserve existing jobs and production, which will create the greatest number of new jobs and most additional lignite production and economic growth potential in coal-producing counties or those counties with recoverable coal reserves, which will attract matching private industry investment equal to at least fifty percent or more of the total cost, and which will result in development and demonstration of a marketable lignite product or products with a high level of probability of rapid commercialization by the year 2000 or before. For marketing applications, priority must be given to those projects, processes, or activities that develop baseline information, implement specific marketing strategies, and otherwise contribute to the effective marketing of lignite and its products by the year 2000 or before. For reclamation applications, priority must be given to those projects, processes, or activities that will reduce unnecessary regulatory costs and assist in effectively reclaiming surface mined land to its original or better productivity as soon as possible. Any projects, activities, or processes selected by the commission for funding must achieve the priorities and purposes of the program, must have undergone technical review and be determined to have technical merit, must have generated matching private industry investment, and must have received a favorable lignite research council recommendation.

Industrial commission powers. The industrial commission is hereby granted all powers necessary or appropriate to carry out and effectuate the purposes of this chapter, including the power:

1. To make grants or loans, and to provide other forms of financial assistance as necessary or appropriate, to qualified persons for research, development, and marketing projects, processes, or activities directly related to lignite and products derived from lignite.
2. To make and execute contracts and all other instruments necessary or convenient for the performance of its powers and functions under this chapter, including the authority to contract for the administration of the lignite research, development, and marketing program.
3. To borrow money and issue evidences of indebtedness as provided in this chapter.
4. To receive and accept aid, grants, or contributions of money or other things of value from any source to be held, used, and applied

to carry out the purposes of this chapter, subject to the conditions upon which the aid, grants, or contributions are made, including aid, grants, or contributions from any department, agency, or instrumentality of the United States for any purpose consistent with the provisions of this chapter.

5. To issue and sell evidences of indebtedness in an amount or amounts as the commission may determine, plus costs of issuance, financing, and any evidences of indebtedness funded reserve funds required by agreements with or for the benefit of holders of the evidences of indebtedness for the purpose of funding research, development, and marketing projects, processes, or activities directly related to lignite and products derived from lignite.
6. To refund and refinance its evidences of indebtedness from time to time as often as it is advantageous and in the public interest to do so, and to pledge any and all income and revenues derived by the commission under this chapter or from a project, process, or activity funded under this chapter to secure payment or redemption of the evidences of indebtedness.

Evidences of indebtedness.

1. Evidences of indebtedness issued by the industrial commission under this chapter are payable solely from:
 - a. Appropriations by the legislative assembly from moneys in the lignite research fund.
 - b. Revenues or income that may be received by the commission from lignite projects, processes, or activities funded under this chapter with the proceeds of the commission's evidences of indebtedness.
 - c. Revenues or income received by the commission under this chapter from any source.
2. The evidences of indebtedness are not subject to taxation by the state or any of its political subdivisions and are not debt of the state or of any officer or agent of the state within the meaning of any statutory or constitutional provision. The evidences of indebtedness must be executed by the manual or facsimile signature of a member or members of the commission and the manual signature of a designated authenticating agent. Any evidences of indebtedness bearing the signature of a member of the commission in office at the date of signing are valid and binding for all purposes notwithstanding that before delivery the person has ceased to be a member of the commission.

Access to commission records. Materials and data submitted to, or made or received by, the commission, to the extent that the materials or data consist of trade secrets, or commercial, financial, or proprietary information of individuals or entities applying to or contracting with the commission or receiving commission services under this chapter, are not public records subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota.

Approved March 19, 1991
Filed March 19, 1991

CHAPTER 590

SENATE BILL NO. 2318
(Streibel)

EXPORT TRADING COMPANY PARTICIPATION

AN ACT to amend and reenact subsection 4 of section 6-09-15 and sections 54-18-04 and 54-18-04.2 of the North Dakota Century Code, relating to the power of the Bank of North Dakota to invest funds in an export trading company and the power of the industrial commission to participate with export trading companies; and to repeal section 4-01-19.1 of the North Dakota Century Code, relating to the participation of the department of agriculture's marketing bureau with export trading companies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 6-09-15 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. Invest its funds:
 - a. In conformity with policies of the industrial commission.
 - b. ~~In an export trading company organized and doing business in this state through the purchase of shares of stock.~~
 - c. In a public venture capital corporation organized and doing business in this state through the purchase of shares of stock.

SECTION 2. AMENDMENT. Section 54-18-04 of the North Dakota Century Code is amended and reenacted as follows:

54-18-04. Powers and duties of industrial commission in operating association. To accomplish the purposes of this chapter, the industrial commission shall acquire by purchase, lease, or by exercise of the right of eminent domain, all necessary property or property rights and may:

1. Construct, remodel, or repair all necessary buildings.
2. Purchase, lease, construct, or otherwise acquire warehouses, elevators, flour mills, factories, offices, plants, machinery, equipment, and all other things necessary, incidental, or convenient in the manufacturing and marketing of all kinds of raw and finished farm products within or without the state.
3. Dispose of all kinds of raw and finished farm products.

4. Buy, manufacture, store, mortgage, pledge, sell, exchange, or otherwise acquire or dispose of all kinds of manufactured and raw farm and food products and byproducts.
5. For the purpose of acquiring or disposing of all kinds of manufactured farm and food products and byproducts, establish and operate exchanges, bureaus, markets, and agencies, within or without the state, including foreign countries, on such terms and conditions and under such rules and regulations as the commission may determine.
6. Participate with export trading companies formed pursuant to Public Law No. 97-290 [96 Stat. 1233; 15 U.S.C. 4001 et seq.; 15 U.S.C. 61; 15 U.S.C. 45; 12 U.S.C. 372; 12 U.S.C. 635 a-4; 12 U.S.C. 1043] to accomplish the acquisition and disposal of raw and finished farm products by means of commercial enterprises engaged in distribution, marketing, exporting, importing, and manufacturing of raw and finished farm products. For purposes of this section "participate" means anything that any private individual or corporation may lawfully do in conducting a similar business with an export trading company, not otherwise prohibited by law.

SECTION 3. AMENDMENT. Section 54-18-04.2 of the North Dakota Century Code is amended and reenacted as follows:

54-18-04.2. Confidentiality exemption.

1. The industrial commission may provide for the confidentiality of trade secrets and certain commercial and financial information related to specific business transactions of the North Dakota mill and elevator ~~or any export trading company with which the mill and elevator participates~~, including subsidiaries of the North Dakota mill and elevator.
2. Information may be designated as confidential only when such information would impair the mill and ~~elevator or export trading company's~~ elevator's ability to obtain necessary information in the future or cause substantial harm to their competitive position, or when such information would cause substantial harm to the privacy or competitive position of a business partner of the mill and elevator ~~or export trading company~~.
3. Only information regarding specific business transactions and concerning trade secrets as that term is defined in subsection 4 of section 47-25.1-01, commercial information such as bids, prices for products and commodities, quantities, market strategies, distribution channels, and patterns of competition, or financial information of business partners of the mill and elevator ~~or export trading company~~ may be designated as confidential.
4. Before any information is designated as confidential pursuant to this section, a request by the mill and elevator ~~or export trading company~~ for designation of confidentiality must be made public at least five days before the industrial commission acts to designate information as confidential. Any person may protest the requested designation of confidentiality in writing or orally with the industrial commission, or seek an injunction to prevent the

designation of confidentiality in the district court. The request for confidentiality must state the general nature and type of information to be protected, but need not state the name of any business partner or the specific substance of the information which is the subject of the request.

5. Any information designated as confidential pursuant to this section shall not remain confidential when the transaction is reported to the industrial commission or discussed by the industrial commission at a regular or special meeting, unless the transaction is continuing and disclosure of the information may jeopardize the successful completion of the transaction, or it is information concerning the business partner of the mill and elevator ~~or export trading company~~ and disclosure of information would impair the mill and ~~elevator or export trading company's~~ elevator's ability to obtain necessary information in the future or cause substantial harm to the privacy or competitive position of the business partner.

SECTION 4. REPEAL. Section 4-01-19.1 of the North Dakota Century Code is repealed.

Approved March 14, 1991
Filed March 15, 1991

CHAPTER 591

SENATE BILL NO. 2116
(Committee on Appropriations)
(At the request of the State Mill and Elevator Association)

MILL AND ELEVATOR AUDITS

AN ACT to amend and reenact section 54-18-14 of the North Dakota Century Code, relating to the annual audit of the mill and elevator association.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-18-14 of the North Dakota Century Code is amended and reenacted as follows:

54-18-14. Annual audit of association. The books, records, accounts, inventories, stocks of merchandise, supplies, equipment, and all affairs of the association must be audited and examined once in each year by the state auditor. The audit must be made as soon as possible after June thirtieth in each year. Said audit and the report thereof must disclose fairly and accurately the actual condition of the association as of June thirtieth of that year. Profits and losses may be computed only on such contracts and commitments, or parts thereof, as have been completed on said date, and no estimates of forecasts may be made as to the probable loss or gain on transactions to be fulfilled after said date. Inventories of grains, supplies, and stocks on hand must be computed at the market price on said date on the basis of cost or market, on a consistent basis, in accordance with generally accepted accounting principles. The report may disclose the actual obligations and commitments of the association on existing unfulfilled contracts, and the consideration and prices fixed in said contracts, if, in the judgment of said state auditor, the same are necessary to a complete audit, but the report constitutes a factual report of existing conditions, and, to the fullest extent possible, all estimates, forecasts, and probabilities must be eliminated therefrom. Copies of such audit report upon completion must be filed with the industrial commission, the manager of the association, with the state auditor, and a consolidated balance sheet and operating statement must be made public.

Approved March 14, 1991
Filed March 15, 1991

CHAPTER 592

SENATE BILL NO. 2245
(Committee on State and Federal Government)
(At the request of the Office of Management and Budget)

DIRECTOR OF INSTITUTIONS FUNCTIONS TRANSFER

AN ACT to amend and reenact sections 4-11-21, 4-22-05, 15-59-05.2, 23-01-02, 23-12-10.2, 25-01-01, 25-01-01.1, subsection 6 of section 25-03.1-43, subdivision m of subsection l of section 28-32-01, sections 37-10-03.5, 37-18.1-01, 39-01-02, subsection 5 of section 39-10-50, sections 44-08-18, 48-02-09, 48-06-01, 48-06-03, 48-06-04, 48-06-06, 48-06-07, 48-08-03, 48-08-05, 48-08-08, 48-11-02, 50-06-01.4, 50-06-06.3, subsection 8 of section 50-25.1-02, section 54-01-11, subdivision j of subsection l of section 54-06-04, sections 54-06-18, 54-21-17.1, 54-21-18, 54-21-19, 54-21-24, 54-21-24.1, 54-21-27, 54-21-28, 54-23.2-01, 54-23.2-08, 54-23.3-01, 54-23.3-03, 54-23.3-05, 54-40-12, 54-56-01, 55-01-02.1, and 55-02-08 of the North Dakota Century Code, relating to the transfer of the director of institutions' functions to the office of management and budget or appropriate agency; and to repeal sections 54-21-06, 54-21-06.1, 54-21-09, 54-21-10, 54-21-11, 54-21-12, 54-21-20, 54-23-01, 54-23-02, 54-23-03, 54-23-04, 54-23-05, 54-23-06, 54-23-07, 54-23-08, 54-23-09, 54-23-11, 54-23-12, 54-23-13, 54-23-14, 54-23-15, 54-23-17, 54-23-18, 54-23-24, 54-23-25, 54-23-26, 54-23-30, 54-23-33, 54-23-36, 54-23-38, 54-23-39, 54-23-40, 54-23-41, 54-23-42, 54-23-43, 54-23-49, 54-23-50, 54-23-51, and 54-23-58 of the North Dakota Century Code, relating to the director of institutions' supervisory control, powers and duties, submission of records and reports, and authorization to acquire property.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4-11-21 of the North Dakota Century Code is amended and reenacted as follows:

4-11-21. Fees and collections - Disposition. All moneys arising from the collection of fees and other charges under the provisions of this chapter must be deposited by the commissioner with the state treasurer to be credited to the seed department revolving fund, and must be disbursed, within the limits of legislative appropriations therefrom, upon order of the commissioner, with the approval of the director of institutions office of management and budget.

SECTION 2. AMENDMENT. Section 4-22-05 of the North Dakota Century Code is amended and reenacted as follows:

4-22-05. Employees - Legal services - Offices - State departments to cooperate with committee. The state soil conservation committee may employ an administrative officer and such technical experts and agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. The committee may call upon

the attorney general for such legal services as it may require, or may employ its own counsel and legal staff. It may delegate such powers and duties as it may deem proper to its chairman, members, agents, or employees. ~~The director of institutions shall supply suitable office accommodations at the seat of the state government, and shall furnish the necessary supplies and equipment.~~ Upon the request of the committee for the purpose of carrying out any of its functions, the supervising officer of any state agency or of any state institution of learning, insofar as may be possible under available appropriations and having due regard to the needs of the agency to which the request is directed, may assign or detail to the committee, members of the staff or personnel of such agency or institution of learning, and may make such special reports, surveys, or studies as the committee may request.

* SECTION 3. AMENDMENT. Section 15-59-05.2 of the North Dakota Century Code is amended and reenacted as follows:

15-59-05.2. Interagency cooperative agreements for the provision of educational related services to handicapped students - Report by department of public instruction. The department of public instruction shall cooperatively develop and implement interagency agreements with appropriate public and private agencies, including the ~~director of institutions~~ department of corrections and rehabilitation, the state department of human services, and the state department of health and consolidated laboratories, for purposes of maximizing available state resources in fulfilling the educational related service requirements of Public Law 94-142 [89 Stat. 773] and section 504 of the Rehabilitation Act of 1973, as amended. The department of public instruction shall report to the legislative council interim committee on education the content of such interagency agreements and the progress in achieving the goals and objectives set out therein at such time as the interim committee may direct.

** SECTION 4. AMENDMENT. Section 23-01-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23-01-02. Health council - Members, terms of office, vacancies, compensation, officers, meetings. The health council consists of fifteen members appointed by the governor in the following manner: Two persons shall be appointed from a list of four submitted by the state hospital association, two persons shall be appointed from a list of four submitted by the state medical association, one person shall be appointed from a list of two submitted by the state dental association, one person shall be appointed from a list of two submitted by the state optometric association, one person shall be appointed from a list of two submitted by the state nurses association, one person shall be appointed from a list of two submitted by the state pharmaceutical association, and there shall be appointed seven persons who are consumers of health care services and not employed in the health care field. One health care consumer member must be a representative of the business community, one health care consumer member must be a representative of the agriculture community, one health care consumer member must be a representative of organized labor, and one health care consumer member must be a representative of elderly citizens. On the expiration of the term of any member, the governor, in the manner provided by this section, shall appoint for a term of three years, persons to take the place of members whose terms on the council are about to expire. The officers of the council shall be elected annually. The following persons shall serve in an advisory capacity to the health council: the state health officer, the attorney general, the director of ~~institutions~~ the department of corrections and

* NOTE: Section 15-59-05.2 was also amended by section 2 of Senate Bill No. 2073, chapter 600.

** NOTE: Section 23-01-02 was also amended by section 1 of House Bill No. 1112, chapter 257.

rehabilitation, the state fire marshal, the executive secretary of the state board of nursing, the executive director of the department of human services, the executive director of the North Dakota Indian affairs commission, and any other persons the governor may designate. The council shall meet at least twice each year and at other times as the council or its chairman may direct. The council shall have as standing committees a health committee and a hospital committee and any other committees the council may find necessary. The health committee consists of one of the representatives of the state medical association, one of the representatives of the state hospital association, the representative of the state dental association, the representative of the state optometric association, the representative of the state nurses association, and two of the health care consumer members. The hospital committee consists of the representatives of the state hospital association, one of the representatives of the state medical association, the representative of the state nurses association, and two of the health care consumer members. The members of these committees shall be selected by the chairman of the health council from its own membership. The chairman shall have the responsibility of assigning to the special committees problems relating to the respective fields. The members of the council are entitled to receive the same compensation per day as provided in section 54-35-10 for members of the legislative council and their necessary mileage and travel expenses as provided in sections 54-06-09 and 44-08-04 while attending council meetings, or in the performance of such special duties as the council may direct. The per diem and expenses shall be audited and paid in the manner in which the expenses of state officers are audited and paid. The compensation provided for in this section may not be paid to any member of the council who received salary or other compensation as a regular employee of the state, or any of its political subdivisions, or any institution or industry operated by the state.

SECTION 5. AMENDMENT. Section 23-12-10.2 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23-12-10.2. **Complaints and enforcement.** The state department of health and consolidated laboratories is designated to receive reports or complaints from any person regarding violations of sections 23-12-09 through 23-12-11. State agencies with statutory jurisdiction over places of public assembly may enforce sections 23-12-09 through 23-12-11. These agencies include the fire marshal department, state department of health and consolidated laboratories, department of human services, and ~~director of institutions~~ office of management and budget. The agencies may mutually agree as to the manner in which enforcement is to be accomplished, and may amend their administrative rules to ensure compliance with sections 23-12-09 through 23-12-11.

Authorities other than state agencies may conduct inspections and report violations to state agencies, or enforce smoking policies, rules, or ordinances more stringent than those contained in sections 23-12-09 through 23-12-11.

SECTION 6. AMENDMENT. Section 25-01-01 of the North Dakota Century Code is amended and reenacted as follows:

25-01-01. **Definitions.** In this title, unless the context or subject matter otherwise requires:

1. "Defective delinquent" means an incompetent mentally deficient person over eighteen years of age who has been found, in accordance with the procedures established in chapter 25-04, to have demonstrated a pattern of aggravated antisocial behavior such as to present a probable peril to the life, person, or property of others, or who has given substantial evidence of continuing propensity for such behavior.
2. ~~"Director" means the director of institutions.~~
3. "Licensed physician" means an individual licensed under the laws of this state to practice medicine and also means a medical officer of the government of the United States while in this state in the performance of his the physician's official duties.
4. ~~3.~~ "Mentally deficient person" means any person, minor or adult other than a mentally ill person, who is so mentally defective as to be incapable of managing himself and his that person's affairs and to require supervision, control, and care for his that person's own or the public welfare.
5. ~~4.~~ "Mentally ill individual" means an individual having a psychiatric or other disease which substantially impairs his the individual's mental health.
6. ~~5.~~ "School for the blind" means the North Dakota school for the blind.
7. ~~6.~~ "School for the deaf" means the school for the deaf of North Dakota.
8. ~~7.~~ "State hospital" means the state hospital for the mentally ill.
9. ~~8.~~ "Superintendent" means the superintendent of the state hospital, of the developmental center at Grafton, of the school for the blind, or of the school for the deaf, as the case may be.
10. ~~9.~~ "Supervising officer" means the executive director of the department of human services, or the ~~director of institutions~~ superintendent of public instruction, as the case may be.

* SECTION 7. AMENDMENT. Section 25-01-01.1 of the North Dakota Century Code is amended and reenacted as follows:

25-01-01.1. State council on developmental disabilities. There must be maintained in the office of the governor a state council on developmental disabilities consisting of one representative of each of the following departments, divisions, institutions, and organizations designated by the head of such agency or organization:

1. Office of superintendent of public instruction.
2. North Dakota department of human services.
3. State department of health and consolidated laboratories.
4. Developmental center at Grafton.

* NOTE: Section 25-01-01.1 was also amended by section 1 of Senate Bill No. 2237, chapter 508.

5. Job service North Dakota.

~~6. Director of institutions.~~

The council shall have consumer representation in conformity with federal regulations regarding developmental disabilities. All members of the council must be appointed by the governor from the list of designees provided by agency heads pursuant to this section. The council shall select its own officers who shall serve for a term of two years commencing on October first of each year. Meetings must be held at least twice a year or at the call of the chairman or upon notice in writing signed by not less than three members of the council. A simple majority of the council constitutes a quorum and may act upon any matter coming before the council. Members of the council are entitled to reimbursement in the same manner and at the same rate provided by law for other state officials.

The council shall assist in the development of the state plan for developmental disabilities, monitor and evaluate the implementation of such state plan, review and comment on all state plans in the state which relate to programs affecting persons with developmental disabilities, provide protection and advocacy to developmentally disabled individuals when requested by a state department, division, institution, or organization, and establish a committee on professional standards and certification which will develop rules for the certification of developmental disability professionals. The council, with the approval of the governor, shall appoint a full-time director who shall assist the council. The director must be classified under the state personnel merit system. The council shall also perform studies and surveys of the needs of developmentally disabled persons in North Dakota, and shall facilitate coordination of the activities of all state departments, divisions, agencies, and institutions having responsibilities in the field of developmental disabilities.

* SECTION 8. AMENDMENT. Subsection 6 of section 25-03.1-43 of the North Dakota Century Code is amended and reenacted as follows:

6. The ~~director of institutions~~ department of corrections and rehabilitation in cases in which prisoners sentenced to the state prison are patients in the state hospital on authorized transfers either by voluntary admissions or by court order.

** SECTION 9. AMENDMENT. Subdivision m of subsection 1 of section 28-32-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

m. The ~~director of institutions~~ department of corrections and rehabilitation.

SECTION 10. AMENDMENT. Section 37-10-03.5 of the North Dakota Century Code is amended and reenacted as follows:

37-10-03.5. National guard facilities - Maintenance and repair board. The adjutant general, ~~the director of institutions~~, and a member of the governing body of a political subdivision nominated annually by the adjutant general and ~~the director of institutions~~ from the governing bodies of those political subdivisions which contribute to the maintenance and repair of national guard facilities, shall be the armory maintenance and repair board. The board shall meet annually and determine which national guard armories are

* NOTE: Section 25-03.1-43 was also amended by section 3 of Senate Bill No. 2372, chapter 293.

** NOTE: Subsection 1 of section 28-32-01 was also amended by section 5 of Senate Bill No. 2054, chapter 640, and by section 33 of Senate Bill No. 2058, chapter 95.

in need of maintenance or repair. The board shall determine the priority of maintenance or repairs for each national guard armory. The board shall determine the contribution from the national guard and each political subdivision toward maintenance or repair of individual armories. The national guard shall contribute up to fifty percent of the maintenance and repair costs determined necessary by the board as funds become available within the limits of legislative appropriations.

SECTION 11. AMENDMENT. Section 37-18.1-01 of the North Dakota Century Code is amended and reenacted as follows:

37-18.1-01. Administrative committee on veterans' affairs - Membership - Appointment. There is hereby created an administrative committee on veterans' affairs, which, for purposes of this chapter, must hereinafter be referred to as the committee. The committee must consist of four ex officio nonvoting members and fifteen voting members. The adjutant general, the center director of the veterans' administration, and the executive director of job service North Dakota, ~~and the director of institutions~~ are the ex officio nonvoting members who shall serve in an advisory capacity to the committee. On or before June 20, 1971, the American legion, the veterans of foreign wars, the disabled American veterans, the veterans of World War II, Korea, and Vietnam, (amvets), and Vietnam veterans' of America, incorporated, shall each prepare a list containing the names of six persons qualifying as veterans under the provisions of section 37-01-40, for appointment as voting members of the committee. On or before July 1, 1971, the governor shall select fifteen nominees, three from each list, five of whom must be appointed to a term of three years, five of whom must be appointed to a term of two years, and five of whom must be appointed to a term of one year, or until their successors are appointed and qualified. On or before the twentieth day of June in each year, beginning in the year 1972, each of the above-listed nominating organizations shall submit a list containing the names of two persons who qualify as veterans under the provisions of section 37-01-40, to the governor for appointment or reappointment as voting members of the committee. On or before the first day of July in each year, beginning in the year 1972, the governor shall select one nominee from each list, a total of five nominees, to fill expiring terms of voting members of the committee. Each such appointment must be for a term of three years, or until a successor is appointed and qualified. All terms begin on the first day of July and end on the thirtieth day of June in the year specified. In case of the inability or failure of any voting member of the committee to serve, the governor shall appoint another member from a list of two persons qualifying as veterans under the provisions of section 37-01-40, submitted by the nominating organization represented by the member who was unable or failed to serve. Such appointments must be made for the remainder of the unexpired term.

* **SECTION 12. AMENDMENT.** Section 39-01-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-01-02. Motor vehicles owned or leased by the state to display name on side of vehicles - Exceptions - Penalty. All motor vehicles owned and operated by the state, except the official vehicle for use by the governor, must have displayed on each front door the words NORTH DAKOTA. The words must be in letters four inches [10.16 centimeters] in height. Two and one-half inches [6.35 centimeters] directly below those words there must be printed in letters one and one-half inches [3.81 centimeters] in height the name of the state agency owning or leasing the motor vehicle. The width of the display required by this section must be proportionate to the required

* **NOTE:** Section 39-01-02 was also amended by section 1 of House Bill No. 1167, chapter 394, and by section 18 of Senate Bill No. 2001, chapter 28.

height. The color of the lettering must be in clear and sharp contrast to the background. The state highway patrol and all peace officers of this state shall enforce this section. The state auditor, in the course of spot checking or verifying the inventory of any state agency, shall include in the auditor's report to the governor and the legislative assembly any instance of noncompliance with this section that comes to the auditor's attention. The above requirements do not apply to vehicles operated by the attorney general's office, the bureau of criminal investigation, or the highway patrol, vehicles used for drivers education at state institutions, vehicles used principally in juvenile, parole, and placement service, selected cars or vehicles of the state penitentiary approved by the director of institutions department of corrections and rehabilitation, vehicles owned and operated by any entity located upon the international boundary line between the United States of America and Canada used and maintained as a memorial to commemorate the long-existing relationship of peace and good will between the people and the governments of the United States of America and Canada and to further international peace among the nations of the world; or to any truck owned by any state agency. A passenger motor vehicle bearing official plates must be in compliance with this section. The administrator of any state agency who uses or authorizes the use of a motor vehicle which is not marked as required by this section is guilty of a class B misdemeanor.

SECTION 13. AMENDMENT. Subsection 5 of section 39-10-50 of the North Dakota Century Code is amended and reenacted as follows:

5. The state highway department, with respect to streets, roadways, and parking areas of any state charitable or penal institution and on the state capitol grounds, may authorize the purchase and placement by the director of institutions supervisory agency of official traffic-control devices prohibiting or restricting the stopping, standing, or parking of vehicles. The placement of signs pursuant to this section must be done when, in the department's opinion, the stopping, standing, or parking is dangerous or would unduly interfere with the free movement of traffic, especially the free flow of traffic required for proper fire protection. No person may stop, stand, or park any vehicle in violation of the restriction indicated by any official traffic-control device. Any registered owner must be presumed to have been the operator of a vehicle that is parked in violation of any official traffic-control device prohibiting or restricting the stopping, standing, or parking of vehicles on any highway, state charitable or penal institution property, or on the state capitol grounds. This presumption may be rebutted by a showing of clear and convincing evidence to the contrary. However, no traffic citation may be issued for a violation of this subsection occurring on the state capitol grounds during a legislative session, except that a written warning must be placed on any vehicle for such a violation.

SECTION 14. AMENDMENT. Section 44-08-18 of the North Dakota Century Code is amended and reenacted as follows:

44-08-18. Officials and employees of agencies located in capitol building responsible for keys issued to them - Return upon termination of employment - Agency head responsibility. Every elected and appointed state official and all state employees employed by or administering any agency, department, board, commission, or other governmental organization with offices located in the state capitol building shall be responsible for the

safekeeping and return of keys allowing entrance to any of such offices or to the capitol building proper which may have been issued to them by the director of institutions office of management and budget. Each official or employee shall, upon or prior to termination of employment in the state capitol, return any and all keys which may have been issued to ~~him~~ the official or employee by the director of institutions office of management and budget or by the legislative council to the person in charge of such keys in the office or department in which ~~he~~ the official or employee was employed. The person in charge, or ~~his~~ the person's designee, shall see to the return of the keys to the director of institutions office of management and budget in a manner provided by rules and regulations which shall be promulgated by the director of institutions office of management and budget. Failure to return a key shall be handled as provided in section 54-06-15.

SECTION 15. AMENDMENT. Section 48-02-09 of the North Dakota Century Code is amended and reenacted as follows:

48-02-09. Appropriations not to be diverted. No portion of any special appropriation for the erection of any building or improvement, or for the doing of any work, shall be drawn from the state treasury in advance of the work done or of materials furnished. The same shall be drawn only upon proper estimates thereof approved by the director of institutions supervising agency or the board of higher education, whichever is the governing body of the institution for which the building is being erected. No portion of any appropriation for any purpose shall be drawn from the treasury before it shall be required for the purpose for which it is made, and no appropriation which is or may be made for any purpose with respect to such construction or improvement shall be drawn or used for any other purpose until the construction or improvement for which such appropriation was made is fully completed and paid for.

SECTION 16. AMENDMENT. Section 48-06-01 of the North Dakota Century Code is amended and reenacted as follows:

48-06-01. Establishment - Rules and regulations. The director of institutions the office of management and budget shall maintain and operate a central mailing bureau in the state capitol. The director shall prescribe such reasonable rules and regulations as may be necessary for the prompt and efficient dispatch of all mail.

SECTION 17. AMENDMENT. Section 48-06-03 of the North Dakota Century Code is amended and reenacted as follows:

48-06-03. Departments exempt from using central mailing bureau. The director of institutions the office of management and budget may exempt any department where it is determined that it would not be practical or economical for it to use said central mailing bureau, because of the unusual weight, kind, or volume of mail dispatched by the department.

SECTION 18. AMENDMENT. Section 48-06-04 of the North Dakota Century Code is amended and reenacted as follows:

48-06-04. Purchasing supplies - Employing mail clerks - Director of institutions Office of management and budget. The director of institutions the office of management and budget shall provide a suitable room and shall employ a mailing clerk and an assistant mailing clerk, if necessary. The director also shall purchase postage meter machines and such other equipment,

materials, and supplies as are necessary for the purpose of carrying out the provisions of this chapter.

SECTION 19. AMENDMENT. Section 48-06-06 of the North Dakota Century Code is amended and reenacted as follows:

48-06-06. ~~Director of institutions~~ Office of management and budget postage revolving fund. There shall be maintained in the office of the state treasurer a "~~director of institutions~~ an "office of management and budget postage revolving fund" ~~in the basic sum of thirty thousand dollars to provide funds~~ for the advance payment of postage. The director of ~~institutions~~ the office of management and budget may draw upon said fund for the advance payment of postage for the use of the central mailing bureau, and all collections from the several offices, departments, and agencies, for postage used by the same, are hereby appropriated and shall be paid into said fund. The provisions of section 54-27-10 shall not apply to said fund nor shall any part of said fund revert at the expiration of any biennium.

SECTION 20. AMENDMENT. Section 48-06-07 of the North Dakota Century Code is amended and reenacted as follows:

48-06-07. Voucher for postage used - Presented to departments by mailing clerk. The mailing clerk or such other person as may be designated by the director of ~~institutions~~ the office of management and budget under the direction of said director shall keep an accurate and complete record of all postage used by each officer, department, or agency, for mail dispatched through said central mailing bureau and shall present monthly or oftener to each such officer, department, or agency, a bill or voucher in the form prescribed by law, for the amount of postage used. After the same has been approved by the office of the budget, it shall be credited to the postal revolving fund of the ~~director of institutions~~ office of management and budget out of the postage appropriation of said officer, department, or agency.

SECTION 21. AMENDMENT. Section 48-08-03 of the North Dakota Century Code is amended and reenacted as follows:

48-08-03. Press representatives' room in state capitol. The director of ~~institutions~~ the office of management and budget shall set aside a room in the state capitol for the exclusive use of accredited representatives of daily and other newspapers and full time correspondents of accredited press associations, and shall place the statehouse correspondent of the Associated Press in charge of such press room.

SECTION 22. AMENDMENT. Section 48-08-05 of the North Dakota Century Code is amended and reenacted as follows:

48-08-05. Federal agencies charged for light, heat, and janitor service. The director of ~~institutions~~ the office of management and budget shall fix and determine a fair and reasonable monthly charge for light, heat, and janitor service to be paid by each federal agency located and transacting business in the capitol.

SECTION 23. AMENDMENT. Section 48-08-08 of the North Dakota Century Code is amended and reenacted as follows:

48-08-08. State, county, local municipal buildings - Space for disaster activities. The director of ~~institutions~~ the office of management and budget and any other group, board or commission having control of the use of any state, county, or local municipal buildings are authorized to provide space for emergency operating centers and disaster offices in such buildings.

SECTION 24. AMENDMENT. Section 48-11-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

48-11-02. Duties and responsibilities. The capitol arts and historic preservation advisory committee shall advise the director of ~~institutions~~ the office of management and budget, the capitol grounds planning commission, and the legislative council on matters relating to the physical and aesthetic features of the interior of all buildings on the capitol grounds. The committee shall meet at the call of the chairman and must be called in whenever major interior changes, including new construction, remodeling, or renovation of any kind are proposed or considered for the buildings or facilities on the capitol grounds. The committee shall also be consulted prior to the purchase or installation of furniture or fixtures in public areas of the capitol and other buildings on the capitol grounds.

* SECTION 25. AMENDMENT. Section 50-06-01.4 of the North Dakota Century Code is amended and reenacted as follows:

50-06-01.4. Structure of the department. The department includes the state hospital, the governor's council on human resources, the regional human service centers, a vocational rehabilitation unit, and other units or offices and administrative and fiscal support services as the executive director determines necessary. The department must be structured to promote efficient and effective operations and, consistent with fulfilling its prescribed statutory duties, shall act as the official agency of the state in the discharge of the following functions not otherwise by law made the responsibility of another state agency:

1. Administration of programs for children and families, including adoption services and the licensure of child-placing agencies, foster care services and the licensure of foster care arrangements, child protection services, state youth authority, licensure of day care homes and facilities, services to unmarried parents, refugee services, in-home community-based services, and administration of the interstate compacts on the placement of children and juveniles.
2. Administration of programs for persons with developmental disabilities, including licensure of facilities and services, and the design and implementation of a community-based service system for persons in need of habilitation.
3. Administration of aging service programs, including nutrition, transportation, advocacy, social, ombudsman, recreation, and related services funded under the Older Americans Act of 1965 [42 U.S.C. 3001, et seq.], home and community-based services, licensure of adult family care homes, and the fund matching program for city or county tax levies for senior citizen activities and services.
4. Administration of mental health programs, including planning and implementing preventive, consultative, diagnostic, treatment, and

* NOTE: Section 50-06-01.4 was also amended by section 3 of Senate Bill No. 2237, chapter 508.

rehabilitative services for persons with mental or emotional disorders and psychiatric conditions.

5. Administration of programs for crippled children, including the provision of services and assistance to crippled children and their families, and the development and operation of clinics for the identification, screening, referral, and treatment of crippled children.
6. Administration of alcohol and drug abuse programs, including establishing quality assurance standards for the licensure of programs, services, and facilities, planning and coordinating a system of prevention, intervention, and treatment services, providing policy leadership in cooperation with other public and private agencies, and disseminating information to local service providers and the general public.
7. Administration of economic assistance programs, including aid to families with dependent children, food stamps, fuel assistance, child support enforcement, refugee assistance, work experience, work incentive, and quality control.
8. Administration of medical service programs, including medical assistance for needy persons, early and periodic screening, diagnosis and treatment, the licensure of basic care facilities, utilization control, and claims processing.

The executive director shall consult with and maintain a close working relationship with the state department of health and consolidated laboratories; with the ~~director of institutions~~ department of corrections and rehabilitation and the superintendents of the school for the deaf and the school for the blind to develop programs for developmentally disabled persons; and with the superintendent of public instruction to maximize the use of resource persons in regional human service centers in the provision of special education services. The executive director shall also maintain a close liaison with county social service agencies.

SECTION 26. AMENDMENT. Section 50-06-06.3 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.3. Facility staff training. It is the intent of the legislative assembly that the department of human services design and implement a facility staff training system in cooperation with ~~the director of institutions~~ and the board of higher education to assure adequate and appropriate staff development and training for the providers of community-based care on behalf of developmentally disabled persons.

SECTION 27. AMENDMENT. Subsection 8 of section 50-25.1-02 of the North Dakota Century Code is amended and reenacted as follows:

8. "State child protection team" means a multidisciplinary team consisting of the designee of the department and, where possible of a physician, a representative of a child-placing agency, a representative of the state department of health and consolidated laboratories, a representative of the office of the attorney general, a representative of the department of public instruction, a representative of the ~~director of institutions~~ department of

corrections and rehabilitation, one or more representatives of the lay community, and, as an ad hoc member, the designee of the chief executive official of any institution named in a report of institutional abuse or neglect. All team members, at the time of their selection and thereafter, must be staff members of the public or private agency which they represent, or shall serve without remuneration. In no event may an attorney member of the child protection team be appointed to represent the child or the parents at any subsequent court proceeding nor may the child protection team be composed of fewer than three persons.

SECTION 28. AMENDMENT. Section 54-01-11 of the North Dakota Century Code is amended and reenacted as follows:

54-01-11. Who has charge of property ceded by United States to state. When any military reservation or Indian school reservation is ceded to the state of North Dakota by the United States, the director of institutions the office of management and budget shall take charge of and care for the property until otherwise provided by law. The governor shall receipt to the United States for any personal property transferred to the state.

SECTION 29. AMENDMENT. Subdivision j of subsection 1 of section 54-06-04 of the North Dakota Century Code is amended and reenacted as follows:

j. Director of institutions Department of corrections and rehabilitation.

SECTION 30. AMENDMENT. Section 54-06-18 of the North Dakota Century Code is amended and reenacted as follows:

54-06-18. Director to authorize postage meters. No state agency, department, or institution may obtain or use a postage meter unless authorized to do so by the director of institutions the office of management and budget. All state agencies, departments, and institutions which obtain or use a postage meter prior to July 1, 1975, shall apply to the director for such authorization within one month after July 1, 1975. Each state agency, department, or institution which is authorized by the director to obtain or use a postage meter shall maintain such records as the director may require and shall allow the director to inspect such records upon request. The director of institutions office of management and budget shall keep in his office a record of the identification numbers of all postage meters which his office has authorized for usage.

SECTION 31. AMENDMENT. Section 54-21-17.1 of the North Dakota Century Code is amended and reenacted as follows:

54-21-17.1. Director to secure interior of capitol building - Issuance and return of keys. The director of institutions the office of management and budget shall see to the security of the state capitol building, and shall have control over the issuance and return of keys allowing entry to the building proper, or any door located therein. Keys to doors in the legislative wing must be issued and controlled by the legislative council when so requested by the director of institutions office of management and budget. The director of institutions office of management and budget shall promulgate rules and regulations regarding the manner in which keys are to be

issued and returned, including the procedure for receiving and recording the payment of fees in lieu of return of keys provided in section 54-06-15.

SECTION 32. AMENDMENT. Section 54-21-18 of the North Dakota Century Code is amended and reenacted as follows:

54-21-18. Custody of office building - Considered part of capitol building - Director has control of public property. The director of ~~institutions~~ the office of management and budget shall control, manage, and maintain the state office building. The building must be considered a part of the state capitol building within the meaning of statutes relating to the custody, maintenance, and control of the state capitol building and grounds, and within the meaning of statutes requiring state departments or agencies to maintain their offices in the state capitol building.

Except as otherwise provided by law, the director shall have charge and control of the executive mansion, the capitol, and the park and public grounds connected therewith.

SECTION 33. AMENDMENT. Section 54-21-19 of the North Dakota Century Code is amended and reenacted as follows:

54-21-19. Director to furnish supplies and maintain capitol, state offices, and executive mansion - Authority to charge for services. The director of ~~institutions~~ the office of management and budget shall provide all necessary fuel, electricity, insurance, janitorial, and other services necessary to maintain the state offices on the capitol grounds as well as all necessary furniture, fuel, electricity, express, freight, drayage, and all other necessary supplies for the executive mansion and the capitol grounds, and shall make all necessary repairs. The purchases must be in accordance with chapter 54-44.4. The director shall charge an amount equal to the fair value of the office space and other services rendered to all departments that receive and expend moneys from other than the general fund, except that for good cause the amounts charged may be waived by the director for a one-year period of time with the waiver subject to further annual renewals after proper application has been filed with the director.

SECTION 34. AMENDMENT. Section 54-21-24 of the North Dakota Century Code is amended and reenacted as follows:

54-21-24. Additional office space may be obtained outside state capitol. In the event that office space in the state capitol building becomes insufficient to accommodate the various state departments, agencies, and boards, the director of ~~institutions~~ the office of management and budget may contract for and obtain such additional office space outside the state capitol in the city of Bismarck or in the Bismarck area as is necessary in order to provide accommodations for all state departments, agencies, and boards. When office space is obtained in this manner, any department, agency, or board which occupies such office space must be deemed to be located at the state capitol for purposes of statutes which require that a department, agency, or board must be maintained at the state capitol, and the director shall charge an amount equal to the fair value of the office space and other services rendered to all departments which receive and expend moneys from other than the general fund, except that for good cause the amounts charged may be waived by the director for a one-year period of time with such waiver being subject to further annual renewals after proper application has been filed with the director.

SECTION 35. AMENDMENT. Section 54-21-24.1 of the North Dakota Century Code is amended and reenacted as follows:

54-21-24.1. Lease of additional space by state agencies, departments, offices, officers, boards, and institutions. No lease or rental agreement or renewal of such lease or rental agreement for the lease or rental of buildings or portions of buildings for use by the state may be entered into by state agencies, departments, offices, officers, boards, and institutions, other than institutions under the board of higher education, the adjutant general and department of transportation office and storage space for field engineering and maintenance crews, unless approved by the director of ~~institutions~~ the office of management and budget and unless the attorney general has determined the legal sufficiency of such lease or rental agreement. To assure economy, efficiency, and cooperation between the state and its political subdivisions, and to limit the number of locations of state offices for the convenience of persons traveling to such offices, the director shall promulgate rules and regulations governing the lease or rental of additional buildings or portions thereof by such state agencies, departments, offices, officers, boards, and institutions other than those under the board of higher education, the adjutant general and department of transportation office and storage space for field engineering and maintenance crews.

SECTION 36. AMENDMENT. Section 54-21-27 of the North Dakota Century Code is amended and reenacted as follows:

54-21-27. Removal or sale of unsafe public building - Procedure. The superintendent of the institution, the warden of the institution, the commanding general of the national guard, or the head of an agency, department, bureau, board, or commission, as the case may be, having the responsibility of supervising and maintaining a public building belonging to the state of North Dakota, may sell or remove such building whenever it is found to be obsolete, a fire hazard, in unsafe condition so as to constitute a hazard to life or limb, and is of no future use to the state where it is located, by obtaining the written approval of the state director of ~~institutions~~ the office of management and budget if under his supervision or the head of the department having supervision and the state fire marshal.

Economics shall dictate whether or not the sale or removal shall be by advertising for public bids and awarding same to the lowest responsible bidder. If the building is to be destroyed, every effort must be made to salvage and store any material which will be beneficial to the state, or which will have a salable value.

SECTION 37. AMENDMENT. Section 54-21-28 of the North Dakota Century Code is amended and reenacted as follows:

54-21-28. Space utilization studies - Office space allocation. The director of ~~institutions~~ the office of management and budget shall:

1. Conduct a periodic comprehensive space utilization study of all executive branch staff located within the facilities on the capitol grounds.
2. Develop a space allocation and design policy which will consider space equalization and maximize the effective use of public facilities in a cost-effective manner.

3. Allocate and assign office space, based upon space utilization studies and the established policies, guidelines, standards, and procedures, to all executive branch staff housed and working in facilities on the capitol grounds.
4. Include in developing standards and criteria to be used in making space allocations, considerations regarding equipment; work stations; private offices; conference rooms; reception areas; vaults; necessary arrangements of dividers, doors, and walls to increase adequate air circulation; telephones; lighting; and heating in the utilization of available space.
5. Be consulted, and the director's approval obtained, before any change is made within any assigned and allocated space, and before any structural alteration is made.

SECTION 38. AMENDMENT. Section 54-23.2-01 of the North Dakota Century Code is amended and reenacted as follows:

54-23.2-01. Definitions. Wherever the word "director" is hereinafter used, it shall mean the director of institutions the office of management and budget. The word "system" hereinafter used shall mean the state radio broadcasting system.

SECTION 39. AMENDMENT. Section 54-23.2-08 of the North Dakota Century Code is amended and reenacted as follows:

54-23.2-08. Payment for law enforcement system. Each county shall pay the director ~~of institutions~~ for approximately fifty percent of the cost of the law enforcement telecommunications system, with charges to begin accruing on the first day the system becomes operational. Payments must be made on the basis of the following schedule of charges:

1. Counties having a population of less than five thousand shall pay thirty dollars per month.
2. Counties having a population of five thousand or more but less than ten thousand shall pay sixty dollars per month.
3. Counties having a population of ten thousand or more but less than fifteen thousand shall pay ninety dollars per month.
4. Counties having a population of fifteen thousand or more but less than twenty-five thousand shall pay one hundred twenty dollars per month.
5. Counties having a population of twenty-five thousand or more shall pay one hundred sixty dollars per month.

Other law enforcement agencies may participate in the law enforcement telecommunications system upon payment for their portion of this service at actual cost. The director ~~of institutions~~ may adjust payments for the law enforcement system. Adjustments to the rates to reflect changes in economic conditions and the general economy become effective on each July first following the review. Whenever the director considers an adjustment, the director shall consult with representatives of state and local units of government. The director may contract with political subdivisions for the

purpose of providing assistance to those political subdivisions in providing services authorized by chapter 57-40.6. The director shall deposit all revenue obtained under this chapter with the state treasurer for deposit in the state radio broadcasting system operating account. The state radio broadcasting system operating account must be expended pursuant to legislative appropriation for the operation and maintenance of the system.

* SECTION 40. AMENDMENT. Section 54-23.3-01 of the North Dakota Century Code is amended and reenacted as follows:

54-23.3-01. Department of corrections and rehabilitation - Creation - Duties - Programs. There is hereby created a department of corrections and rehabilitation in the office of that is responsible to the director of institutions governor. The department is responsible for the direction and general administrative supervision, guidance, and planning of adult and juvenile correctional facilities and programs within the state. The department includes a division of adult services, a division of juvenile services, and such other divisions as are determined necessary for the effective and efficient operation of the department. Programs and facilities included in the department are the North Dakota state penitentiary- state farm or any of its affiliated facilities, parole and probation for adult offenders, state industrial school, community programs and services for juvenile offenders under the division of juvenile services, and any other programs developed by the department.

SECTION 41. AMENDMENT. Section 54-23.3-03 of the North Dakota Century Code is amended and reenacted as follows:

54-23.3-03. Director - Appointment - Qualifications - Compensation. The chief administrative officer of the department is the director of the department of corrections and rehabilitation, who must be appointed by the director of institutions governor. The person appointed as director must hold at least a bachelor's degree from an accredited college or university and must have held a management position in correctional or related work for at least five years. The salary of the director will be set by the director of institutions governor within the limits of legislative appropriations and within the salary range of the classified position as established by the central personnel division for the position.

SECTION 42. AMENDMENT. Section 54-23.3-05 of the North Dakota Century Code is amended and reenacted as follows:

54-23.3-05. Appointment and removal of officers. The director of the department of corrections and rehabilitation with the approval of the director of institutions governor may appoint a director of the division of juvenile services, a director of the division of adult services, and other division directors and personnel as deemed necessary for the effective and efficient operation of the department. The director of the division of juvenile services, the director of the division of adult services, and other division directors who may be appointed, shall meet qualifications as established for the classified positions under the central personnel classification system. The division directors may be removed by the director of the department, with the approval of the director of institutions governor, for misconduct, neglect of duty, incompetency, or other cause showing an inability or refusal to properly perform the duties of their office. All other officers and employees of each division must be appointed and removed by the director of the division, subject to the approval of the

* NOTE: Section 54-23.3-01 was also amended by section 22 of House Bill No. 1201, chapter 116.

director of the department of corrections and rehabilitation. All officers and employees of the department of corrections and rehabilitation are subject to the provisions of the state personnel policies.

SECTION 43. AMENDMENT. Section 54-40-12 of the North Dakota Century Code is amended and reenacted as follows:

54-40-12. Joint agreements for heat from a central heating source. Any political subdivision, nonprofit hospital, or nursing home of this state, through its governing body, may enter into an agreement with any state agency or institution to furnish or receive heat from a central heating source. The director of ~~institutions~~ the office of management and budget or the any supervisory state health officer agency must be the contracting party in an agreement involving a state institution under the director's or health officer's control. Political subdivisions, nonprofit hospitals, nursing homes, and state agencies and institutions are encouraged to enter into agreements pursuant to this section.

* SECTION 44. AMENDMENT. Section 54-56-01 of the North Dakota Century Code is amended and reenacted as follows:

54-56-01. 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 department of corrections and rehabilitation or a designee of the director of the department of corrections and rehabilitation, the director of the office of management and budget or a designee of the director of the office of management and budget, 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 45. AMENDMENT. Section 55-01-02.1 of the North Dakota Century Code is amended and reenacted as follows:

55-01-02.1. Board to have jurisdiction over heritage center. The state historical board shall have jurisdiction over the administration and operations of the North Dakota heritage center building. The director of ~~institutions~~ the office of management and budget shall be responsible for maintenance of the heritage center building. The state historical board shall be responsible for the maintenance of the board's collections displayed and stored at the heritage center, and shall provide, or arrange, for the security of those collections.

SECTION 46. AMENDMENT. Section 55-02-08 of the North Dakota Century Code is amended and reenacted as follows:

55-02-08. Custody and control of former executive mansion - Maintenance responsibility. The custody and control of the former executive mansion located at 320 Avenue B East in the city of Bismarck, North Dakota, with the legal description of lots 3 and 4, Block 11, Northern Pacific Addition to the city of Bismarck, is ~~hereby transferred from the director of~~

* NOTE: Section 54-56-01 was also amended by section 1 of Senate Bill No. 2512, chapter 636.

~~institutions to the responsibility of the state historical board. The maintenance responsibility of the former executive mansion shall continue in the director of institutions, subject to the direction of the superintendent of the state historical board.~~

SECTION 47. REPEAL. Sections 54-21-06, 54-21-06.1, 54-21-09, 54-21-10, 54-21-11, 54-21-12, 54-21-20, 54-23-01, 54-23-02, 54-23-03, 54-23-04, 54-23-05, 54-23-06, 54-23-07, 54-23-08, 54-23-09, 54-23-11, 54-23-12, 54-23-13, 54-23-14, 54-23-15, 54-23-17, 54-23-18, 54-23-24, 54-23-25, 54-23-26, 54-23-30, 54-23-33, 54-23-36, 54-23-38, 54-23-39, 54-23-40, 54-23-41, 54-23-42, 54-23-43, 54-23-49, 54-23-50, 54-23-51, and 54-23-58 of the North Dakota Century Code are repealed.

Approved April 3, 1991

Filed April 4, 1991

CHAPTER 593

SENATE BILL NO. 2076
(Legislative Council)
(Interim Political Subdivisions Committee)

STATE BUILDING CODE

AN ACT to amend and reenact section 54-21.3-03 of the North Dakota Century Code, relating to the state building code.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-21.3-03 of the North Dakota Century Code is amended and reenacted as follows:

54-21.3-03. State building code - Amendments.

1. The state building code consists of the ~~1985~~ most recently published Uniform Building Code with any existing supplements including the Uniform Mechanical Code with any existing supplements as referenced by the Uniform Building Code except that section 504(f) of the Uniform Mechanical Code is amended to read as follows:

Section 504(f). LPG Appliances.

Liquefied petroleum gas burning appliances, both automatically and manually controlled, may be installed in basements or similar locations only if (a) the appliances are of an American gas association-approved type and installed in accordance with national fire protection association pamphlets 54 and 58, (b) automatically controlled appliances are equipped with safety shutoff devices of the complete shutoff type, and (c) gas piping has been pressure tested and proven to be gastight.

This code must be implemented by and may be amended by rules adopted by the director of the office of management and budget under chapter 28-32.

2. For the purposes of manufactured homes, the state building code consists of the manufactured homes construction and safety standards under 24 CFR 3280 adopted pursuant to the Manufactured Housing Construction and Safety Standards Act [42 U.S.C. 5401 et seq.].
3. The state building code may be amended by cities, townships, and counties to conform with local needs, ~~except that the standards established by amendment under this subsection must meet or exceed those of the state building code.~~

Approved April 5, 1991
Filed April 8, 1991

CHAPTER 594

HOUSE BILL NO. 1130
(Committee on Education)
(At the request of the State Radio Communications)

MISSING CHILDREN IDENTIFICATION AID

AN ACT to establish procedures upon enrollment of children in schools, licensed day care facilities, or home-based instruction to aid in the identification and location of missing children.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. School enrollment procedures to aid identification and location of missing children.

1. When a child enrolls in a school, licensed day care facility, or home-based instruction for the first time, the school, licensed day care facility, or school superintendent of the jurisdiction shall:
 - a. Require the child's parent, guardian, or legal custodian to present to the school, licensed day care facility, or school superintendent of the jurisdiction, within forty days of enrollment, proof of identity of the child; and
 - b. Request the appropriate school records for the child from the previous school attended by the child. The school enrolling the child shall make the request within thirty days of enrollment of the child.
2. If a child's parent, guardian, or legal custodian does not present the proof of identity required in subsection 1 within forty days of enrollment or if the school does not receive the school records of the child within sixty days of enrollment, the school, licensed day care facility, or school superintendent of the jurisdiction shall notify the missing person information program provided in section 54-23.2-04.1 and a local law enforcement authority that no proof of identity has been presented for the child.
3. A school shall transfer records of a child within ten calendar days upon receipt of request.
4. When a school, licensed day care facility, or school superintendent receives a notice from a law enforcement authority, parent, guardian, or legal custodian that a child who is or has been enrolled in that school or facility has been reported as a missing child, the school, licensed day care facility, or school superintendent shall:
 - a. Flag the records of the child; and

- b. Notify the missing person information program provided in section 54-23.2-04.1 and a local law enforcement authority if a request for school records is received from any source.
5. When the division of vital records of the state department of health and consolidated laboratories receives a notice from a law enforcement authority that a person is reported as missing, the division of vital records shall:
 - a. Flag the records of the individual; and
 - b. Notify the missing person information program provided in section 54-23.2-04.1 and a local law enforcement authority if a request for records is received from any source.
6. If it is necessary for law enforcement authorities to conduct an investigation on a missing child, school or day care personnel may not inform the person claiming custody of the child of the investigation while it is being conducted.
7. For purposes of this section:
 - a. "Flag the records" means marking the division of vital records, school, day care, or home-based instruction records in such a manner that any personnel viewing that record will be automatically alerted that the child or individual has been reported as missing.
 - b. "Home-based instruction" means as applied in chapter 15-34.1.
 - c. "Proof of identity" means a certified copy of a birth certificate, a certified transcript, or similar student records from the previous school, or any other documentary evidence the school, licensed day care facility, or school superintendent considers appropriate proof of identity.
 - d. "School" or "licensed day care facility" means all elementary and secondary schools, as well as any licensed day care facilities whether public, private, or parochial.

Approved March 19, 1991
Filed March 19, 1991

CHAPTER 595

HOUSE BILL NO. 1193

(Committee on State and Federal Government)

(At the request of the Department of Corrections and Rehabilitation)

DEPARTMENT OF CORRECTIONS' POWERS

AN ACT to create and enact four new subsections to section 54-23.3-04 of the North Dakota Century Code, relating to giving the director of the department of corrections and rehabilitation powers and duties held by the director of institutions to issue bonds, contract for correctional services, lease and sell penitentiary lands, and provide certain meals to officers and employees; to amend and reenact subsection 48 of section 30.1-01-06 of the North Dakota Century Code, relating to trust accounts; and to repeal sections 54-21-07, 54-21-25, 54-21-26, 54-21-26.1, 54-23-22, 54-23-29, 54-23-45, 54-23-56, 54-23-57, and 54-23-59 of the North Dakota Century Code, relating to duties of the director of institutions in the operation of correctional institutions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. 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, chapter 12-48, 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 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.

SECTION 2. Four new subsections to section 54-23.3-04 of the North Dakota Century Code are created and enacted as follows:

To furnish a bond as approved by the governor and to require bonds from department employees who may be charged with the custody or control of any money or property belonging to the state, and who are not otherwise required by law to give a bond. The bonds must conform to the provisions of law applicable to the bonds of state

- * NOTE: Subsection 48 of section 30.1-01-06 was also amended by section 18 of Senate Bill No. 2068, chapter 54.

officers and employees. Each such bond must be filed in the office of the secretary of state.

To contract for correctional services, and to provide such services, with the United States, Canada, other states, and any of their governmental subdivisions and agencies and with another agency or governmental unit in this state, or with any private or public correctional or treatment facility or agency. The director may also contract to provide services, without cost to the state, for persons held by any of the jurisdictions mentioned in this section. An adult inmate considered for transfer to another jurisdiction who does not consent to the transfer or a juvenile delinquent considered for transfer to another jurisdiction whose parent or guardian does not consent to the transfer must be given notice of the pending transfer and a review of the proposed transfer to determine the need and justification for the transfer by a board consisting of an institutional staff member, a security or housing staff member, a member of the administrative staff, and a chairman who is designated by the director of corrections. The findings of the review board must be given to the adult inmate or in the case of a juvenile delinquent, the parent or guardian. In addition, in the case of an adult inmate, the findings must be presented to the pardon board, and in the case of a juvenile, to the designated juvenile court for approval of the requested transfer. If a treaty is in effect between the United States and a foreign country for the transfer and exchange of offenders, the director of the department of corrections and rehabilitation, upon recommendation of the warden and the approval of the governor, may on behalf of the state under the terms of the treaty transfer or exchange offenders and take any action necessary for the state to participate in the treaty.

To sell, lease, or exchange, with the governor's approval, selected portions of land owned by the state under the jurisdiction of the department of corrections and rehabilitation and to sell, trade, lease, or grant mining easements to extract and remove any resources found on, in, or under said department of corrections and rehabilitation lands including clay, coal, oil, gas, gravel, sand, dirt, and sod, under the following conditions and provisions:

- a. Any such sale, exchange, or transaction must allow for the submission of bids pursuant to a notice published in at least one official county newspaper. The sale, exchange, or transaction is exempt from the provisions of sections 54-01-05.2 and 54-01-05.5.
- b. Any such sale, exchange, or transaction may not be made for less than the appraised value, and the state reserves the right to reject any and all bids.
- c. The commissioner of university and school lands or the commissioner's designee shall provide technical assistance and advice to the director of the department of corrections and rehabilitation in any transaction.

- d. All legal documents, papers, and instruments required by any transaction must be reviewed and approved as to form and legality by the attorney general.
- e. Any of these transactions can be entered into on any terms and conditions permitted by law and approved by the governor.
- f. All funds and proceeds realized from any of these transactions must be placed in an interest-bearing fund in the state treasury, designated as the North Dakota state penitentiary land fund to be used for the acquisition of additional land and facilities; to maintain, expand, or develop affiliated facilities; to relocate the Missouri river correctional center and the farming and ranching operations of the North Dakota state penitentiary; or for penitentiary renovation.

To provide meals at a fair value or without a charge to officers and employees of the department as required by their job assignments.

SECTION 3. REPEAL. Sections 54-21-07, 54-21-25, 54-21-26, 54-21-26.1, 54-23-22, 54-23-29, 54-23-45, 54-23-56, 54-23-57, and 54-23-59 of the North Dakota Century Code are repealed.

Approved April 8, 1991
Filed April 8, 1991

CHAPTER 596

SENATE BILL NO. 2448
(Senators Mushik, Yockim, Nelson)
(Representatives Stofferahn, Kretschmar, Wentz)

LIBRARY AUTHORITIES

AN ACT relating to library authorities; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Definitions. In this Act, unless the context otherwise requires:

1. "Academic library" means a library that is part of a college or university that is publicly or privately funded and whose primary role is to provide resources to enrich and support the school's curricula and the research needs of students and faculty.
2. "Library resource center" means a central service unit, whose location is to be agreed upon by members of the multitype library authority and who is responsible for extending special services to support members of the multitype library authority, while meeting all authority standards.
3. "Multitype library authority" means a geographic subdivision within which multitype libraries are organized for the purpose of providing library and information services through cooperation and mutual support.
4. "Multitype library authority network" means the statewide group of multitype library authorities.
5. "Participant library" means any library agreeing to join a multitype library authority.
6. "Public library" means a library that is supported with funds derived from taxation and which maintains a balanced collection of materials to serve the lifelong information, reading, and recreational needs of the general population.
7. "School library media center" means a learning center operated as part of a publicly or privately supported school or school district and whose role is to provide instruction, cooperatively design learning strategies, and provide resources that support and enrich the curriculum, following the North Dakota school library media guidelines.
8. "Special library" means a public or private sector library whose collection is specialized and limited in scope and size and whose role is to provide information to a limited clientele.

SECTION 2. Committee - Membership - Compensation. The superintendent of public instruction shall appoint a seven-member statewide library planning committee. The members must include a state legislator; a representative of the superintendent of public instruction; a representative of the state library; a representative of a school library media center; a representative of a college or university library; a representative of a public library; and a representative of a special library. The term of office for each member of the committee is three years and no person may serve more than two 3-year terms. The superintendent of public instruction shall stagger the terms so that initially, three members are appointed for three years, three members are appointed for two years, and one member is appointed for one year. Each member of the committee is entitled to receive the same per day compensation as provided for members of the legislative council under section 54-35-10, together with expenses as provided in sections 44-08-04 and 54-06-09, while attending meetings or performing duties directed by the committee, except that no compensation may be paid to any committee member who receives compensation or salary as a regular state employee or official.

SECTION 3. Committee powers and duties. In the administration of this Act, the committee may:

1. Adopt bylaws for the conduct of business.
2. Provide guidance for the development, implementation, and improvement of the multitype library authority network.
3. Enter into contracts.
4. Utilize the staff of the state library as permitted by the state librarian.
5. Adopt a compensation plan for network staff.
6. Set the terms and conditions of statewide service contracts with libraries.
7. Determine necessary or desirable interauthority programs or services.
8. Propose standards for service.
9. Set interauthority reimbursement formulas for reciprocal borrowing and other cooperative plans.
10. Conduct periodic performance reviews of multitype library authorities and make service revisions.
11. Determine types of interaction and linkage of the North Dakota multitype library network with interstate and national library networks.

SECTION 4. Multitype library authorities - Establishment. The committee shall establish one multitype library authority during the 1991-93 biennium and shall establish one or more multitype library authorities in each biennium thereafter, until no fewer than four nor more than eight are in existence. In establishing the authorities, the committee shall consider:

1. Population;
2. Population density;
3. Number and types of libraries;
4. Library information resources, including existing libraries, staff and collections;
5. Marketing and transportation patterns;
6. Proximity of municipalities;
7. Geographic size of the authority;
8. Finances; and
9. Any other matter not inconsistent with this section.

SECTION 5. Multitype library authority interim planning committee - Establishment. The statewide library planning committee shall appoint an interim planning committee for the multitype library authority. The interim planning committee must consist of two lay representatives residing within the authority and five librarians. The librarians must, as far as practical, represent public libraries, academic libraries, school library media centers, and special libraries.

SECTION 6. Multitype library authority interim planning committee - Duties. In the administration of this Act, the multitype library authority planning committee may:

1. Elect provisional officers;
2. Identify all librarians eligible to be members of the multitype library authority;
3. Hold informational meetings;
4. Distribute and receive applications for memberships in the multitype library authority;
5. Draft interim bylaws for the multitype library authority;
6. Prepare papers of incorporation;
7. Publicize activities;
8. Prepare a three-year plan for the development of services within the authority and present it to the statewide planning committee for review and approval; and
9. Exercise any other duty that is necessary to carry out this Act.

SECTION 7. Multitype library authority - Membership. To join the regional multitype library authority, a library shall obtain official approval from its board and submit an application to the interim planning committee. A library that agrees to provide to any person residing within

the authority access to its collection on the premises, reciprocal borrowing privileges, and interlibrary loan service, may apply for membership. To be eligible for membership, a library shall have defined service objectives, a fixed location, regular hours of service, an organized collection of information and materials accessible for use by its designated clientele, and a qualified and responsible staff. The library shall have an identifiable organizational structure and a legal basis for operation. The library shall be willing and able to participate in appropriate services and programs as set forth by the multitype library authority. The multitype library authority interim planning committee shall review all applications and approve applicants for membership.

SECTION 8. Multitype library authority - Board. Each participating library shall designate a representative to sit on the board of the multitype library authority. At its first meeting, the board shall elect a president, vice president, treasurer, and any other officer it determines to be necessary. The director of the designated library resource center shall serve as an ex officio nonvoting member of the board. The board shall meet at least six times a year and has the power to contract, hire staff and set compensation levels, and adopt bylaws for the conduct of its business. The term of office for all officers of the board is one year, commencing on the January first after election.

SECTION 9. Multitype library authority - Powers and duties. In the administration of this Act, each multitype library authority may:

1. Sue and be sued in the name of the authority.
2. Designate for the multitype library authority a central library resource center with responsibility to extend special services to authority members while meeting all authority standards.
3. Designate an administrative officer for the multitype library authority.
4. Establish, manage, maintain, and operate library facilities.
5. Employ necessary personnel to carry out the provisions of this Act.
6. Purchase supplies and equipment.
7. Acquire and hold property by purchase, devise, lease, gift, or otherwise and sell, exchange, or otherwise dispose of property.
8. Prepare and adopt a budget.
9. Receive and account for funds from authority members.
10. Adopt rules.
11. Make an annual report to each member regarding the budget and expenditures, services rendered, program, development plans, audits, and any other information.
12. Enter into contracts necessary to fulfill this Act.
13. Establish and collect rates and charges for services rendered.

14. Invest excess funds.
15. Establish special funds.
16. Join and participate in civic and professional organizations.

SECTION 10. Multitype library authority members - Rights and responsibilities. All members of a multitype library authority are entitled to receive supplementary reference services, delivery service for library materials, interlibrary loan services, and assistance with citation and location of materials, and reciprocal borrowing privileges among the users of member libraries. All members of a multitype library authority shall share resources with the exception that rare or restricted materials may be exempt, implementing use standards and protocols; avail themselves of continuing education and training opportunities provided by the authority, participate in reference, referral, and interlibrary loan services using communication systems for information exchanged among all types of libraries; maintain total expenditures for library operation, excluding capital improvements, at a level not lower than the preceding fiscal year, or maintain the same or higher mill levy or mill rate equivalency as the preceding fiscal year; and participate in cooperative bibliographic projects.

SECTION 11. Voting rights of members. Each academic, institutional, public, school, and special library has one vote on the board of the multitype library authority. Each operating public school district has one vote on the board of the authority, and represents all public school media centers located within the district. Private and parochial school media centers located within each public school district are a single entity, and shall elect one voting representative from among themselves.

SECTION 12. Withdrawal of membership. To discontinue participation in a multitype library authority, a library authority member shall obtain a resolution or letter that originally requested membership, and give notice to the board of the multitype library authority with a copy to the statewide library planning committee, at least two years before the desired effective date of termination. No member may withdraw unless it has been a participant in the multitype library authority for at least five years at the time of termination. The withdrawing member shall return all property of the multitype library authority.

SECTION 13. Multitype library authority - Operating grants. Each multitype library authority may, upon formation, apply to the statewide library planning committee for a grant to include costs of operation, equipment, interlibrary loan reimbursement funding, and any other necessary purpose.

SECTION 14. Fiscal controls and reports. The board of the multitype library authority shall develop appropriate accounting and record management policies and procedures documenting the operations of the multitype library authority. These policies and procedures must provide that:

1. All records for the multitype library authority and board, including those of the board treasurer, are to be maintained at the authority headquarters.

2. Copies of the multitype library authority board minutes are sent to each member library and to the statewide library planning committee.
3. The fiscal year runs from July first to June thirtieth and financial records and activities are maintained in accordance with accepted accounting practices. A record of all bills, payments, and receipts must be presented to the multitype library authority board by the treasurer at regular meetings and at any other meeting as required by the board.

SECTION 15. Cooperative services and activities.

1. Each multitype library authority shall include as part of its five-year plan for development, provisions for:
 - a. Reference services to supplement those provided by each local library, including interlibrary reference and referral services to residents of the authority.
 - b. Interlibrary loan services on behalf of residents of the authority.
 - c. Delivery services for library materials.
 - d. Citation and location services for library materials.
2. Each multitype library authority may provide for:
 - a. Consultant services and shared staff expertise;
 - b. Cooperative or coordinated acquisition of library materials or subject specialization programs;
 - c. Reciprocal borrowing between member librarians;
 - d. Staff development and inservice training programs;
 - e. Centralized ordering, cataloging, and processing of the library materials;
 - f. Cooperative storage of library materials and lost-copy protection programs;
 - g. Access to computerized literature citation and information data bases;
 - h. Preservation of library materials programs;
 - i. Public relations services; and
 - j. Any other services not inconsistent with this section.

SECTION 16. Dissolution of the multitype library authority. If the need for a multitype library authority ceases to exist, the board of the multitype library authority may, by a two-thirds vote of its members, declare its intent to dissolve the organization and file with the statewide library

planning committee a plan for affecting such dissolution. Upon receipt of the dissolution plan, the committee shall determine if the area of service can be allocated to other multitype library authorities, determine whether the assets and liabilities of the multitype library authority seeking to dissolve can be assumed and absorbed by adjoining multitype library authorities, and consider any other factors which relate to the operation and functioning of the multitype library authority seeking to dissolve. If the committee determines that the multitype library authority should be dissolved, the dissolution takes effect when all legal and fiscal obligations of the multitype library authority have been satisfied.

SECTION 17. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$50,000, or so much thereof as may be necessary, to the superintendent of public instruction for the purpose of funding the statewide library planning committee and the beginning of the establishment and operation of a multitype library authority for the biennium beginning July 1, 1991, and ending June 30, 1993.

Approved April 5, 1991
Filed April 8, 1991

CHAPTER 597

SENATE BILL NO. 2258
(Lips)**BUDGET STABILIZATION FUND TRANSFERS**

AN ACT to create and enact a new section to chapter 54-27.2 of the North Dakota Century Code, relating to transfers from the budget stabilization fund; to amend and reenact sections 54-27.2-01, 54-27.2-02, and 54-27.2-03 of the North Dakota Century Code, relating to transfers of funds from the budget stabilization fund; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-27.2-01 of the North Dakota Century Code is amended and reenacted as follows:

54-27.2-01. Budget stabilization fund. The budget stabilization fund is a special fund in the state treasury. The state investment board shall supervise investment of the budget stabilization fund in accordance with chapter 21-10. Any interest or other budget stabilization fund earnings must be deposited in the fund. Any amounts provided by law for deposit in the fund and any interest or earnings of the fund which would bring the balance in the fund to an amount greater than ~~fifteen~~ five percent of the current biennial state general fund budget, as finally approved by the most recently adjourned special or regular session of the legislative assembly, may not be deposited or retained in the fund but must be deposited instead in the state general fund.

SECTION 2. AMENDMENT. Section 54-27.2-02 of the North Dakota Century Code is amended and reenacted as follows:

54-27.2-02. Certain general fund revenues to be deposited in the budget stabilization fund. Notwithstanding any other provision of law except section 54-27.2-01, any amount in the state general fund in excess of ~~forty~~ one hundred eleven million dollars at the end of any biennium must be transferred by the state treasurer to the budget stabilization fund. For purposes of this section, "at the end of any biennium" means after cancellation of unexpended appropriations under section 54-44.1-11.

SECTION 3. AMENDMENT. Section 54-27.2-03 of the North Dakota Century Code is amended and reenacted as follows:

54-27.2-03. Transfers and expenditures from budget stabilization fund. If the director of the office of management and budget projects that general fund revenues for the biennium will be at least ~~five~~ two and one-half percent less than estimated by the most recently adjourned special or regular session of the legislative assembly, and if the governor orders a transfer, which must be reported to the budget section of the legislative council, the state treasurer shall transfer the appropriate funds from the budget stabilization

fund to the state general fund to offset the decrease in general fund revenues. The amount transferred from the budget stabilization fund upon order of the governor may not exceed the difference between an amount five two and one-half percent below the general fund revenue projections for the biennium of the most recently adjourned special or regular session of the legislative assembly and the general fund revenue projections for the biennium by the director of the office of management and budget. The amount transferred from the budget stabilization fund upon order of the governor to the state general fund may be expended within the limits of legislative guidelines and general fund appropriations of the most recently adjourned special or regular session of the legislative assembly. Moneys in the budget stabilization fund may not be appropriated or expended except as provided in this section; but the legislative assembly may provide for transfer of all or a portion of the moneys in the budget stabilization fund to the common schools trust fund established under section 7 of article IX of the Constitution of North Dakota. For purposes of this section, "general fund revenues for the biennium" and "general fund revenue projections for the biennium" include the general fund balance at the beginning of the biennium.

SECTION 4. A new section to chapter 54-27.2 of the North Dakota Century Code is created and enacted as follows:

Transfer to avoid negative general fund balance. Notwithstanding any other provision of law, if the governor orders a transfer, the state treasurer shall transfer any necessary funds from the budget stabilization fund to the state general fund to offset a negative balance in the state general fund. Any transfers made must be reported to the budget section of the legislative council. The limitations of this chapter with respect to projected general fund revenues do not apply to limit the transfer provided under this section. Upon order of the governor the state treasurer shall return to the budget stabilization fund any transfers or portions thereof which may have been made during the same biennium.

SECTION 5. EXPIRATION DATE. Sections 2 and 4 of this Act are effective through June 30, 1993, and are thereafter ineffective.

Approved April 16, 1991

Filed April 18, 1991

CHAPTER 598

SENATE BILL NO. 2074
(Legislative Council)
(Interim Legislative Management Committee)

LEGISLATIVE COUNCIL MEMBERS

AN ACT to amend and reenact section 54-35-01 of the North Dakota Century Code, relating to appointments to the legislative council; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-35-01 of the North Dakota Century Code is amended and reenacted as follows:

54-35-01. Council - Created - Members - Vacancy - Terms. ~~There shall be a~~ The North Dakota legislative council which is, hereinafter referred to as the legislative council or the council. ~~The legislative council shall consist~~ consists of the majority and minority leaders of the house and of the senate plus five senators and six representatives to be chosen biennially before the close of each regular legislative session. In the house of representatives the speaker of the house shall appoint as council members ~~must be chosen in the same manner as the members of other committees from the list of nine~~ three members recommended by the leader of each political faction and ~~must be divided equally between such factions,~~ except that the speaker must by virtue of his office be one of the three members appointed from ~~his~~ the speaker's faction. In the senate the lieutenant governor shall appoint as council members ~~must be chosen by the lieutenant governor; three from members recommended by the majority faction leader and two from members recommended by the minority faction; such council members to be chosen from a list of seven members recommended to him by each such faction.~~ In the event there shall be less than nine members of the minority faction in the house of representatives or less than seven members of the minority faction in the senate; the names of all members of the minority faction with the exception of the minority leader ~~must be recommended.~~ Any vacancy occurring when the legislative assembly is not in session must be filled by the selection of another member of the legislative assembly belonging to the same faction as the member originally appointed, the selection to be made by the remaining senate or house members of the council, depending upon which body has the vacancy. Each senator and each representative chosen to serve on the council shall serve until a new council has been selected at the next regular legislative session; provided, however, that no senator, not a holdover, who is not reelected to the senate, and no representative, who is not reelected to the house of representatives, may serve as a member of the council beyond the closing day of the term to which ~~he was~~ elected. Any vacancy occurring because any member of the council is not reelected must be filled for the period from the beginning of the session until a new council is selected, in the same manner as the original council is selected.

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

Approved March 14, 1991
Filed March 15, 1991

CHAPTER 599

HOUSE BILL NO. 1603

(Martinson)

(Approved by the Committee on Delayed Bills)

EMPLOYEE BENEFITS PROGRAMS COMMITTEE

AN ACT to amend and reenact sections 54-35-02.3 and 54-35-02.4 of the North Dakota Century Code, relating to the membership of the legislative council's committee on public employees retirement programs and its jurisdiction over public employee and retiree health plans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-35-02.3 of the North Dakota Century Code is amended and reenacted as follows:

54-35-02.3. ~~Committee on public employees retirement~~ Employee benefits programs committee - Appointment - ~~Quorum~~ - Selection of chairman. The legislative council ~~shall~~, during each biennium, shall appoint ~~a~~ an ~~employee benefits programs committee on public employees retirement programs~~ in the same manner as the council appoints other interim committees. ~~The membership of the committee council shall consist of four~~ appoint five members of the house of representatives and ~~three~~ four members of the senate to the committee. ~~The council shall designate the chairman of the committee must be designated by the legislative council. Four members of the committee shall constitute a quorum; and the~~ The committee shall operate according to the statutes and procedure governing the operation of other legislative council interim committees.

SECTION 2. AMENDMENT. Section 54-35-02.4 of the North Dakota Century Code is amended and reenacted as follows:

54-35-02.4. ~~Committee on public employees retirement~~ Employee benefits programs committee - Powers and duties.

1. ~~The employee benefits programs committee on public employees retirement programs~~ shall consider and report on those legislative measures and proposals over which it takes jurisdiction and which affect, actuarially or otherwise, the retirement programs of state employees or employees of any political subdivision, and health and retiree health plans of state employees or employees of any political subdivision. The committee shall make a thorough review of any measure or proposal which it takes under its jurisdiction, including an actuarial review. The committee shall report its findings and recommendations, along with any necessary legislation, to the legislative council and to the legislative assembly.
2. To carry out its responsibilities, the committee, or its designee, is authorized to may:

- a. Enter into contracts, including retainer agreements, with an actuary or actuarial firm for expert assistance and consultation. ~~However, each~~ Each retirement, insurance, or retiree insurance program shall pay, from its retirement, insurance, or retiree health benefits fund, as appropriate, and without the need for a prior appropriation, the cost of any actuarial report required by the committee which relates to that ~~retirement~~ program.
 - b. Call on personnel from state agencies or political subdivisions to furnish such information and render such assistance as the committee may from time to time request.
 - c. Establish rules for its operation, including the submission and review of proposals and the establishing of standards for actuarial review.
3. The committee may solicit draft measures and proposals from interested persons during the interim between legislative sessions, and may also study measures and proposals referred to it by the legislative assembly or the legislative council.
 4. A copy of the committee's report concerning any legislative measure shall, if that measure is introduced for consideration by a legislative assembly, be appended to the copy of that measure which is referred to a standing committee.
 5. A legislative measure affecting a public employees retirement program, public employees health insurance program, or public employee retiree health insurance program may not be introduced in either house unless it is accompanied by a report from the committee. A majority of the members of the committee, acting through the chairman, ~~shall have~~ has sole authority to determine whether any legislative measure affects a **public employees retirement** program.
 6. Any amendment made during a legislative session to a legislative measure affecting a public employees retirement program, public employees health insurance program, or public employee retirees health insurance program may not be considered by a standing committee unless it is accompanied by a report from the employee benefits programs committee **on public employees retirement programs**.
 7. Any legislation enacted in contravention of **the provisions of** this section is invalid and of no force and effect, and any benefits provided under such legislation must be reduced to the level current prior to enactment.

Approved April 16, 1991
Filed April 18, 1991

CHAPTER 600

SENATE BILL NO. 2073
(Legislative Council)
(Interim Legislative Management Committee)

LEGISLATIVE COUNCIL DUTIES

AN ACT to amend and reenact sections 15-10-14.2, 15-59-05.2, 21-11-05, 24-02-37.1, 38-14.1-04.2, 48-10-02, 49-21-22, 54-01-17.2, 54-12-14, 54-35-02.5, 54-40.2-05.1, 54-44.4-04, 54-52-06, 54-52.1-04.3, 54-55-04, and 57-01-11.1 of the North Dakota Century Code, relating to the legislative council; to repeal section 49-21-22, relating to the regulatory reform review commission; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-10-14.2 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-10-14.2. Higher education system review - ~~Special committee~~ - Seven-year plan - Report to legislative assembly.

1. ~~On or before August first of~~ In each odd-numbered year, the state board of higher education shall meet with ~~a special committee of the legislative council consisting of the majority and minority leaders and their assistant leaders from the house and senate, the speaker of the house, and the governor, or their designees, or the governor's designee to solicit ideas and issues the committee council members and the governor believe are priority issues regarding the future of the system of higher education in this state.~~
2. ~~On or before February first of~~ In each even-numbered year, the state board of higher education shall present to the ~~committee legislative council and the governor a seven-year comprehensive plan for the system of higher education in this state. The plan must describe the current and desired condition of the system, in light of the needs of faculty, administrators, and students, and must specifically describe:~~
 - a. The measures the board plans to take to ensure that the system of higher education meets the postsecondary education and training needs of the citizens and employers of the state.
 - b. The measures the board plans to take to improve the quality of higher education for students.
3. The seven-year plan must contain the rationale of the state board of higher education for the items it has listed in the plan as top priority and the methods the board intends to take to address these top priority issues during the next seven years. The plan must

describe what the citizens of the state can expect as a result of the board's actions, the cost or savings of those actions, and specific, detailed options for meeting any costs.

4. The state board of higher education shall report on the seven-year plan, including a report on how the funds proposed in the budget for the upcoming biennium will be used to implement the plan, to the legislative assembly at the organizational session.

* SECTION 2. AMENDMENT. Section 15-59-05.2 of the North Dakota Century Code is amended and reenacted as follows:

15-59-05.2. Interagency cooperative agreements for the provision of educational-related services to handicapped students — ~~Report by department of public instruction.~~ The department of public instruction shall cooperatively develop and implement interagency agreements with appropriate public and private agencies, including the director of institutions, the state department of human services, and the state department of health and consolidated laboratories, for purposes of maximizing available state resources in fulfilling the educational-related service requirements of Public Law 94-142 [89 Stat. 773] and section 504 of the Rehabilitation Act of 1973, as amended. ~~The department of public instruction shall report to the legislative council interim committee on education the content of such interagency agreements and the progress in achieving the goals and objectives set out therein at such time as the interim committee may direct.~~

** SECTION 3. AMENDMENT. Section 21-11-05 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

21-11-05. Approved application filed with industrial commission ~~and legislative council.~~ Upon approval of the application, as submitted or modified, the economic development commission shall file ~~such the~~ application, along with its report and recommendations, received by it as a result of any investigation and evaluation, with the state industrial commission ~~and with the legislative council.~~ The ~~legislative council economic development commission~~ shall prepare and submit any necessary legislation for the appropriation of additional funds or the authorization of the issuance of bonds at the following session of the legislative assembly, or at a special session if called in accordance with the constitution.

*** SECTION 4. AMENDMENT. Section 24-02-37.1 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

24-02-37.1. Special road advisory committee. The special road advisory committee consists of one member of the senate transportation committee and one member of the senate appropriations committee appointed by the chairman of the legislative council and one member of the house of representatives transportation committee and one member of the house of representatives appropriations committee appointed by the chairman of the legislative council and also the game and fish commissioner, the director of state parks and recreation, the director of the economic development commission, and the commissioner. The committee shall meet at the call of the commissioner, who is chairman of the committee, to review requests for funding from the special road fund and to advise the commissioner regarding funding requested projects. The commissioner shall provide staff services to the committee. All final decisions regarding funding requested projects are in the sole discretion of the commissioner. The members of the commission

* NOTE: Section 15-59-05.2 was also amended by section 3 of Senate Bill No. 2245, chapter 592.

** NOTE: Section 21-11-05 was also amended by section 28 of Senate Bill No. 2058, chapter 95.

*** NOTE: Section 24-02-37.1 was also amended by section 91 of Senate Bill No. 2050, chapter 231; by section 3 of Senate Bill No. 2054, chapter 640; and by section 30 of Senate Bill No. 2058, chapter 95.

who are members of the legislative assembly must be compensated by the department, from moneys appropriated from the special road fund, for attendance at committee meetings at the rate provided in section 54-35-10 and are entitled to reimbursement for expenses incurred in attending the meetings in the amounts provided by law for other state officers.

SECTION 5. AMENDMENT. Section 38-14.1-04.2 of the North Dakota Century Code is amended and reenacted as follows:

38-14.1-04.2. Advisory committee responsibilities. The committee, after consultation with the commission, shall adopt procedures under which it is to operate. The responsibilities of the committee, with the administrative and staff assistance and accounting of all funds to be provided by the commission, include:

1. An inventory and brief description and analysis of the conclusions from all reclamation research projects in this state that have been conducted to date as well as an inventory and brief description of all ongoing projects.
2. A review of all past and current reclamation research projects to identify all existing or future research needs and objectives, to prevent duplication, and to establish priorities for future reclamation research according to the objectives established in section 38-14.1-04.3.
3. A review of all proposed reclamation research projects administered by the commission and a determination of which reclamation research projects should be funded and the proper funding levels for the projects.
4. Recommend to the commission future reclamation research budgets to be administered by the commission.
5. ~~Preparation of yearly reports to the legislative council on the status of all reclamation research projects, conclusions reached, and future goals and objectives.~~

SECTION 6. AMENDMENT. Section 48-10-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

48-10-02. Capitol building fund to be administered by the capitol grounds planning commission - Procedure for expenditure of certain funds. The capitol grounds planning commission shall have general powers to superintend the administration of the capitol building fund, its interest and income fund, and its investments and properties. It may cause any lands now held in such funds to be sold at market value, direct the conversion of any securities now held by such funds to cash, approve expenditures from such funds subject to law and legislative appropriations, and to do all other things necessary to carry out the intent and purposes of this section. The board of university and school lands, or its designee, on the commission's behalf, shall see to the investment and management of the capitol building fund and its interest and income fund, and shall account to the commission concerning these funds at the commission's request.

Provided further, all moneys and other property in the capitol building fund, except as otherwise appropriated, are hereby dedicated and reserved to

the exclusive purpose of the construction of an addition to the legislative wing of the state capitol building, and the capitol grounds planning commission shall take necessary steps to accumulate and conserve the money and property in the capitol building fund for such purpose.

The commission may, during any biennium, expend from the interest and income fund of the capitol building fund a sum not to exceed fifty percent of the unencumbered balance on the first day of any biennium, and such amount is hereby appropriated to the capitol grounds planning commission. The expenditure may be made, after consideration of the capitol grounds master plan, for projects or planning but shall not exceed fifty thousand dollars per biennium. The expenditure may only be made upon approval by two-thirds of the total membership of the commission. The expenditure ~~shall~~ must be made upon a voucher, or vouchers, prepared by the ~~legislative council staff~~ office of management and budget at the direction of the commission.

SECTION 7. AMENDMENT. Section 49-21-22 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-21-22. Regulatory reform review commission - Appointments - Report to legislative council. The regulatory reform review commission shall review the operation and effect of subsection 2 of section 49-02-01, section 49-21-01, subsection 6 of section 49-21-01.1, sections 49-21-01.2, 49-21-01.3, 49-21-01.4, 49-21-02.1, 49-21-02.2, 49-21-04 through 49-21-07, 49-21-09, and 49-21-22 on an ongoing basis during the interims between the 1989, 1991, 1993, and 1995 legislative sessions and shall submit a report regarding its operation and effect to the legislative council in 1990, 1992, and 1994. The regulatory reform review commission consists of the members of the public service commission, two members of the senate, appointed by the president of the senate, and two members of the house of representatives, appointed by the speaker. The public service commission shall provide technical assistance and staff services to the regulatory reform commission ~~and the legislative council shall provide staff services~~. The expenses of the regulatory reform review commission while carrying out its duties under subsection 2 of section 49-02-01, section 49-21-01, subsection 6 of section 49-21-01.1, sections 49-21-01.2, 49-21-01.3, 49-21-01.4, 49-21-02.1, 49-21-02.2, 49-21-04 through 49-21-07, 49-21-09, and 49-21-22 including expenses incurred for holding meetings and preparing reports shall, upon the order of the public service commission, be paid by the telecommunications companies affected by subsection 2 of section 49-02-01, section 49-21-01, subsection 6 of section 49-21-01.1, sections 49-21-01.2, 49-21-01.3, 49-21-01.4, 49-21-02.1, 49-21-02.2, 49-21-04 through 49-21-07, 49-21-09, and 49-21-22 in the manner provided in section 49-02-02.

SECTION 8. AMENDMENT. Section 54-01-17.2 of the North Dakota Century Code is amended and reenacted 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 to be chosen by the chairman of the legislative council, one of whom is to be chosen by the committee to act as vice chairman, and five executive branch members, appointed by the governor. 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 must be paid from funds appropriated for the respective offices and agencies. The committee may request provision of appropriate staff services from the office of the governor.

* SECTION 9. AMENDMENT. Section 54-12-14 of the North Dakota Century Code is amended and reenacted 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. The funds 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 the 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 the fund and

* NOTE: Section 54-12-14 was also amended by section 1 of House Bill No. 1156, chapter 581, and by section 2 of Senate Bill No. 2548, chapter 133.

is accountable to the legislative council, upon request, for the expenditure thereof.

SECTION 10. AMENDMENT. Section 54-35-02.5 of the North Dakota Century Code is amended and reenacted as follows:

54-35-02.5. Committee on administrative rules. The legislative council shall, during each biennium, appoint a committee on administrative rules in the same manner as the council appoints other interim committees. ~~The membership of the committee may appoint one or more citizen members representing the segment of the state's population affected by the rules to be reviewed.~~ The legislative council shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative council interim committees.

* SECTION 11. AMENDMENT. Section 54-40.2-05.1 of the North Dakota Century Code is amended and reenacted as follows:

54-40.2-05.1. Review of agreement - Report. Any state agency entering into an agreement approved by the governor pursuant to this chapter, upon the request of any political subdivision affected by the agreement, shall review and determine the utility and effectiveness of the agreement taking into account the original intent of the parties, and determine whether the parties are in substantial compliance with all provisions of the agreement. In making its determinations, the state agency shall provide an opportunity, after public notice, for the public to submit written comments concerning the execution of the agreement. The state agency shall prepare a report of its determinations made pursuant to this section and shall submit copies of the report to the ~~legislative council and the governor.~~

SECTION 12. AMENDMENT. Section 54-44.4-04 of the North Dakota Century Code is amended and reenacted as follows:

54-44.4-04. Office of management and budget - Rules and regulations. The office of management and budget shall ~~promulgate~~ adopt, pursuant to chapter 28-32, rules and regulations necessary to administer this chapter. ~~Additionally, such rules and regulations, and any changes thereto, must be submitted to the legislative council for its review and approval or disapproval prior to promulgation.~~

** SECTION 13. AMENDMENT. Section 54-52-06 of the North Dakota Century Code is amended and reenacted as follows:

54-52-06. Employer's contribution to retirement plan. Each governmental unit shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. If the employee's contribution is paid by the governmental unit under subsection 3 of section 54-52-05, the employer unit shall contribute, in addition, an amount equal to the required employee's contribution. Each governmental unit shall pay monthly such contribution into the retirement fund from its funds appropriated for payroll and salary or any other funds available for such purposes. Any governmental unit failing to pay such contributions monthly is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction thereof after the payment became due. The board shall report to each session of the legislative assembly, ~~or such committee as may be designated by the~~

* NOTE: Section 54-40.2-05.1 was also amended by section 6 of Senate Bill No. 2239, chapter 606.

** NOTE: Section 54-52-06 was also amended by section 4 of House Bill No. 1190, chapter 630.

legislative council to hear such report in the interim between legislative sessions; the contributions necessary, as determined by the actuarial study, to maintain the fund's actuarial soundness.

SECTION 14. AMENDMENT. Section 54-52.1-04.3 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-04.3. 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.

SECTION 15. AMENDMENT. Section 54-55-04 of the North Dakota Century Code is amended and reenacted as follows:

54-55-04. Duties of commissioners and commission. Each commissioner shall attend the annual meeting of the national conference of commissioners on uniform state laws and shall promote uniformity in state laws on those subjects where uniformity may be deemed desirable and practicable. The commission shall also promote as far as practicable the uniform judicial application and construction of all uniform state laws. During the interim between legislative sessions, the commission shall ~~shall~~ may submit its recommendations for enactment of uniform and model laws to the legislative council for its review and recommendation. Commissioners shall provide such assistance to the legislative council as the legislative council requests with respect to its review of uniform and model laws. During each biennial legislative session, and at any other time as the commission may deem proper, the commission shall report to the legislative assembly an account of its transactions and its advice and recommendations for legislation. The report must include the recommendations of the legislative council with respect to uniform and model laws recommended by the commission.

SECTION 16. AMENDMENT. Section 57-01-11.1 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-01-11.1. Reports on auditing enhancement program and settlement of tax assessments. The state tax commissioner shall submit reports quarterly to the budget section of the legislative council may request the state tax commissioner to report on the progress made in collecting additional tax revenues under the auditing enhancement program and on settlements of tax assessments. For any settlements of tax assessments made during the quarterly period covered by the reports, the reports must contain the total amount assessed as of the end of the quarter period and the amounts collected, including a summary reporting major amounts collected.

SECTION 17. REPEAL - EFFECTIVE DATE. Section 49-21-22 of the 1989 Supplement to the North Dakota Century Code is repealed effective on January 1, 1995.

Approved March 18, 1991
Filed March 19, 1991

CHAPTER 601

SENATE BILL NO. 2346
(Senators Graba, Robinson)
(Representatives St. Aubyn, Gates, Skjervén)

LOCAL GOVERNMENT EFFICIENCY GRANTS

AN ACT to create and enact a new section to chapter 54-35.2 of the North Dakota Century Code, relating to administration and provision of planning grants to county and city governments for plans that are intended to improve the efficiency of local government; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-35.2 of the North Dakota Century Code is created and enacted as follows:

Local government efficiency planning grants.

1. The advisory commission on intergovernmental relations shall administer planning grants not exceeding twenty-five thousand dollars per grant to county or city governments, which may be made upon approval of plans intended to increase the efficiency of local government through restructuring of county or city government, changes in county boundaries including consolidation of counties, or consolidation of county and city services.
2. To be eligible for receipt of a planning grant under this section, a preliminary plan must be submitted to the advisory commission on intergovernmental relations which has been approved by a majority of the members of the governing body of each county and city affected by the plan. The preliminary plan must include:
 - a. Detailed description of the changes that would be studied under the planning grant.
 - b. Substantial evidence that implementation of the changes to be studied would result in improved efficiency of county or city government, and an estimate of any resulting cost savings to taxpayers.
 - c. Analysis of any law, ordinance, or home rule charter change or implementation needed, or election that must be held, to accomplish the proposed plan.
 - d. Substantial evidence that requested planning grant funds are necessary, the amount requested, and any amounts that affected political subdivisions will contribute to the costs of project planning or implementation in money, personnel time, or any other manner.

- e. The proposed timetable for conducting the necessary phases of the study and implementation.
3. In approving a planning grant under this section, the advisory commission on intergovernmental relations may impose any conditions it deems appropriate including requiring periodic reports, furnishing of matching funds, or requiring submission of periodic requests for release of funds with evidence of completed portions of the project. The advisory commission on intergovernmental relations may terminate funding of a previously approved grant under this section at any time if the commission is dissatisfied with performance or potential of any part of the project. The advisory commission on intergovernmental relations shall report annually to the budget section of the legislative council on the grants distributed to counties and cities.

SECTION 2. APPROPRIATION. There is hereby appropriated out of any moneys in the state aid distribution fund in the state treasury, not otherwise appropriated, the sum of \$250,000, or so much thereof as may be necessary, to the advisory commission on intergovernmental relations for the purpose of providing planning grants not exceeding twenty-five thousand dollars per grant to counties and cities under section 1 of this Act for the biennium beginning July 1, 1991, and ending June 30, 1993.

Approved April 11, 1991
Filed April 12, 1991

CHAPTER 602

SENATE BILL NO. 2205
(Committee on State and Federal Government)
(At the request of the Lieutenant Governor)

INDIAN AFFAIRS COMMISSION

AN ACT to amend and reenact sections 15-63-01, 54-36-01, 54-36-02, 54-36-03, and 54-36-05 of the North Dakota Century Code, relating to the state board for Indian scholarships and the Indian affairs commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-63-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-63-01. State board for Indian scholarships. There is hereby established a state board for Indian scholarships consisting of an Indian appointed by the governor, the executive director of the state Indian affairs commission, and the commissioner of higher education or the commissioner's designee. The commissioner of higher education or the commissioner's designee shall serve as chairman chairperson and the executive director of the state Indian affairs commission shall serve as secretary of the board for Indian scholarships. The state board of higher education shall request scholarship funds and staff to administer the Indian scholarship program in the board's biennial budget request.

* SECTION 2. AMENDMENT. Section 54-36-01 of the North Dakota Century Code is amended and reenacted as follows:

54-36-01. Commission - Members - Officers - Expenses of members. The North Dakota Indian affairs commission ~~shall consist~~ consists of the governor; ~~attorney general;~~ executive director of the department of human services; ~~state health officer;~~ director of job service North Dakota; ~~the tribal chairmen,~~ four members appointed by the governor from the state at large, three of whom must be of Indian descent, must be enrolled members of a tribe, and must be current voting residents of the state of North Dakota, and the chairpersons of the Standing Rock, Fort Berthold, Fort Totten, and Turtle Mountain Indian Reservations or their designees; one other representative of each reservation appointed by the tribal council; a representative of the North Dakota county commissioners' association who lives on or adjacent to an Indian reservation; a representative of the league of North Dakota cities; three members at large who must be at least one-fourth degree of Indian blood appointed by the governor; and a representative of each house of the legislative assembly who must be chosen on a bipartisan basis by the presiding officer of each house. The commission may call upon the director of the economic development commission for consultation upon business and industrial matters involved in the operation of the commission in the absence of the chairperson, the vice chairperson. The governor or his authorized representative shall act as chairman is the chairperson of the commission and the commission shall select one of its members as secretary. All members.

* NOTE: Section 54-36-01 was also amended by section 39 of Senate Bill No. 2058, chapter 95.

The commission shall meet quarterly or as otherwise agreed. Members of the commission or their designees shall the vice chairperson are entitled to receive the mileage and expenses for attending each meeting as are allowed other state officers which must be paid from the appropriation made to such commission except mileage and expenses of state officials must be paid from the appropriation for the department they represent.

SECTION 3. AMENDMENT. Section 54-36-02 of the North Dakota Century Code is amended and reenacted as follows:

54-36-02. Employees - Duties - Compensation. The governor, after consultation with the members of the commission, shall appoint an executive director of the Indian affairs commission who must serve at the pleasure of the governor. The Indian affairs commission governor may employ an executive director who may not be a member of the commission and such other clerical, professional, and technical personnel, as it the governor deems necessary, and shall prescribe their duties and fix their compensation.

SECTION 4. AMENDMENT. Section 54-36-03 of the North Dakota Century Code is amended and reenacted as follows:

54-36-03. Powers and duties. The Indian affairs commission shall have the power to assist and to mobilize the support of state and federal agencies in assisting Indian individuals and groups in North Dakota, especially the four five tribal councils, as they seek to develop their own goals, project plans for achieving those goals, and implement those plans. The commission's duties are:

1. To investigate any phase of Indian affairs and to assemble and make available the facts needed by tribal, state, and federal agencies to work effectively together.
2. To assist tribal, state, and federal agencies in developing programs whereby Indian citizens may achieve more adequate standards of living.
3. To assist tribal groups in developing increasingly effective institutions of self-government.
4. To work for greater understanding and improved relationships between Indians and non-Indians.
5. To seek increased participation by Indian citizens in local and state affairs.
6. To confer with and coordinate officials and agencies of other governmental units and congressional committees with regard to Indian needs and goals.
7. To encourage and propose agreements and accords between federal, state, and local agencies and the several tribal governments, and, pursuant to chapter 54-40.2, to assist in monitoring and negotiating agreements and accords when asked by an affected tribe.

SECTION 5. AMENDMENT. Section 54-36-05 of the North Dakota Century Code is amended and reenacted as follows:

54-36-05. Meetings - ~~How called~~ Quorum. The Indian affairs commission or any subcommittee it may appoint may meet at such times and places as it may deem advisable. Meetings may be called by the chairman or by a call signed by a majority of the members of the commission. At any meeting of the commission a majority of the members shall constitute constitutes a quorum and a majority of such the quorum shall have authority to may act in any matter falling within the jurisdiction of the commission.

Approved April 16, 1991
Filed April 18, 1991

CHAPTER 603

HOUSE BILL NO. 1569
(Representatives Kelsch, Svedjan)
(Senators Lips, Stenehjelm, Mushik)

DEPENDENCY TREATMENT FACILITIES

AN ACT to amend and reenact section 54-38-07 of the North Dakota Century Code, relating to establishment of facilities for the treatment of drug dependent persons by the department of human services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-38-07 of the North Dakota Century Code is amended and reenacted as follows:

54-38-07. Facilities for treatment of alcoholism - Contracts. The department may establish new facilities for the treatment of alcoholics and drug dependent persons- in areas of the state where a need exists and no private facilities are available to contract for chemical abuse or dependency treatment services. The department may contract for the treatment of alcohol and drug dependent persons by eligible vendors who meet the standards of operations established by the department. When the department chooses to contract, the department shall select eligible vendors who can provide economical and appropriate treatment for alcohol and drug dependent persons. The department shall contract for these services on the basis of the same unit costs incurred by the department in delivering like services. Each contract entered into pursuant to this section must provide that the private vendor-contractor will accept and treat each chemically dependent or chemical abusing client referred to the vendor pursuant to the contract. As used in this section, "standards of operations" includes a determination by the department that the vendor is financially responsible and will continue to provide services throughout the contract period.

Approved April 16, 1991
Filed April 18, 1991

CHAPTER 604

HOUSE BILL NO. 1389
(Representative Kretschmar)
(Senator Satrom)

JOINT POLITICAL SUBDIVISION AGREEMENTS

AN ACT to amend and reenact section 54-40-07 of the North Dakota Century Code, relating to the authority of political subdivisions to enter into agreements with other political subdivisions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-40-07 of the North Dakota Century Code is amended and reenacted as follows:

54-40-07. ~~Chapter not to affect~~ Clarification of constitutional authority and effect of other statutes.

1. The specificity of this chapter or any other law may not be construed to limit the general authority of a political subdivision to enter into agreements pursuant to article VII, section 10 of the Constitution of North Dakota, except for specific limitations on that authority, and subject to specific procedural requirements, imposed by this chapter, any other law, or home rule charter.
2. This chapter does not dispense with procedural requirements of any other statute providing for the joint or cooperative exercise of any governmental power.

Approved April 3, 1991
Filed April 4, 1991

CHAPTER 605

HOUSE BILL NO. 1497
(Martin, Wardner, Kerzman)

REGIONAL PLANNING COUNCILS

AN ACT to amend and reenact subdivision c of subsection 1 of section 54-40.1-03 and subsection 1 of section 54-40.1-04 of the North Dakota Century Code, relating to membership, powers, and duties of regional planning councils.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision c of subsection 1 of section 54-40.1-03 of the North Dakota Century Code is amended and reenacted as follows:

- c. One soil conservation district supervisor from each county must be appointed to the regional council to represent the interests of the resource conservation and development program or any other related programs of the United States department of agriculture agricultural and natural resource interests of the region. The appointment of the soil conservation district supervisor must be made by the respective boards of soil conservation districts. If any county should contain more than one soil conservation district, either in whole or in part, the concerned boards shall meet and jointly agree upon a single appointment to the regional council.

* SECTION 2. AMENDMENT. Subsection 1 of section 54-40.1-04 of the North Dakota Century Code is amended and reenacted as follows:

1. Adopt agreements, rules, or procedures as may be necessary to effectuate planning and development in the region.

Approved March 27, 1991
Filed March 28, 1991

* NOTE: Section 54-40.1-04 was also amended by section 42 of Senate Bill No. 2058, chapter 95.

CHAPTER 606

SENATE BILL NO. 2239
(Committee on Human Services and Veterans Affairs)
(At the request of the Lieutenant Governor)

PUBLIC-TRIBAL AGREEMENTS

AN ACT to amend and reenact sections 54-40.2-02, 54-40.2-03.1, 54-40.2-03.2, 54-40.2-04, 54-40.2-05, 54-40.2-05.1, 54-40.2-06, 54-40.2-08, and 54-40.2-09 of the North Dakota Century Code, relating to agreements between public agencies and Indian tribes; and to repeal section 54-40.2-03 of the North Dakota Century Code, relating to agreement specifications.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-40.2-02 of the North Dakota Century Code is amended and reenacted as follows:

54-40.2-02. Authorization to enter agreements - General contents. Any one or more public agencies may enter into an agreement with any one or more tribal governments to perform any administrative service, activity, or undertaking that any of the public agencies or tribal governments are authorized to perform by law and to resolve any disputes. The agreement must set forth fully the powers, rights, obligations, and responsibilities of the parties to the agreement. The Indian affairs commission may propose agreements entered into pursuant to this chapter and may assist, at the request of any tribe affected by such an agreement, in the negotiation and development of such agreements.

SECTION 2. AMENDMENT. Section 54-40.2-03.1 of the North Dakota Century Code is amended and reenacted as follows:

54-40.2-03.1. Agreement - Notice. Before the submission of an agreement to the governor After the parties to an agreement have agreed to its contents, the state agency involved shall publish a notice containing a summary of the agreement once each week for two consecutive weeks in the official newspaper of each county of the state reasonably expected to be affected by the agreement. The notice must also be published in any newspaper of general circulation for the benefit of the members of any tribe affected by the agreement. The notice must also be posted plainly at the tribal office of any tribe affected by the agreement and in the county courthouse of any county affected by the agreement. The notice must state that the state agency will hold a public hearing concerning the agreement upon the request of any resident of the county in which the notice is published if the request is made within thirty days of the first publication of the notice.

SECTION 3. AMENDMENT. Section 54-40.2-03.2 of the North Dakota Century Code is amended and reenacted as follows:

54-40.2-03.2. Public hearing - Notice. If the state agency receives a request pursuant to section 54-40.2-03.1, the state agency shall hold a public hearing prior to the submission of the agreement to the governor at which any persons interested in the agreement may be heard. Notice of the time, place, and purpose of the hearing must be published once each week for two consecutive weeks prior to the hearing in the official newspaper of each county of the state reasonably expected to be affected by the agreement. The notice of the public hearing must also be published in any newspaper of general circulation published for the benefit of the members of any tribe affected by the agreement. The notice must also be posted plainly at the tribal office of any tribe affected by the agreement and in the county courthouse of any county affected by the agreement. The notice must describe the nature, scope, and purpose of the agreement, and must state the times and places at which the agreement will be available to the public for inspection and copying.

SECTION 4. AMENDMENT. Section 54-40.2-04 of the North Dakota Century Code is amended and reenacted as follows:

54-40.2-04. Submission Approval of agreement ~~to~~ by governor and tribes.

- ~~1- As a condition precedent to an agreement made under this chapter becoming effective, it must have the approval of the governor of North Dakota-~~
- ~~2- If the governor disapproves an agreement, the governor shall provide a detailed, written statement to and the governing bodies of the public agency and tribal government concerned, specifying the reasons for the disapproval-~~
- ~~3- The agency or agencies seeking to enter into the agreements shall submit the agreements to the governor. In deciding whether to approve the agreement, the governor shall use the following criteria:~~
 - ~~a. The purpose of the agreement furthers the goals of the agency-~~
 - ~~b. The agreement is in the best interest of the state as a whole-~~
 - ~~c. The agency or agencies have authority to fulfill the agreement-~~

If the governor does not disapprove the agreement within thirty days after submission, it must be considered approved tribes involved. If the agreement so provides, it may be submitted to the secretary for approval.

SECTION 5. AMENDMENT. Section 54-40.2-05 of the North Dakota Century Code is amended and reenacted as follows:

54-40.2-05. Filing of agreement. Within ten days after a declaration of approval by the governor and following approval of the agreement by the tribe or tribes affected by the agreement and prior to commencement of its performance, an agreement made pursuant to this chapter must be filed with:

1. The secretary.

2. The clerk of court of each county where the principal office of one of the parties to the agreement is located.
3. The secretary of state.
4. The affected tribal government.

* SECTION 6. AMENDMENT. Section 54-40.2-05.1 of the North Dakota Century Code is amended and reenacted as follows:

54-40.2-05.1. Review of agreement - Report. ~~Any state agency entering into an agreement approved by the governor pursuant to this chapter; upon the request of any political subdivision or any tribe affected by the an approved agreement, the Indian affairs commission shall review and determine make findings concerning the utility and effectiveness of the agreement taking into account the original intent of the parties, and determine may make findings as to whether the parties are in substantial compliance with all provisions of the agreement. In making its determinations findings, the state agency Indian affairs commission shall provide an opportunity, after public notice, for the public to submit written comments concerning the execution of the agreement. The state agency Indian affairs commission shall prepare a written report of its determinations findings made pursuant to this section and shall submit copies of the report to the legislative council and the governor affected political subdivision or public agency, the governor, and the affected tribes. The findings of the Indian affairs commission made under this section are for informational purposes only. In any administrative hearing or legal proceeding in which the performance of any party to the agreement is at issue, the findings may not be introduced as evidence, or relied upon, or cited as controlling by any party, court, or reviewing agency, nor may any presumption be drawn from the findings for the benefit of any party.~~

SECTION 7. AMENDMENT. Section 54-40.2-06 of the North Dakota Century Code is amended and reenacted as follows:

54-40.2-06. Revocation of agreement. ~~An Any agreement made pursuant to this chapter is subject to must include provisions for revocation by any party upon six months' notice to the other unless a different notice period of time is provided for within the agreement. No agreement may provide for a notice period for revocation in excess of two years.~~

SECTION 8. AMENDMENT. Section 54-40.2-08 of the North Dakota Century Code is amended and reenacted as follows:

54-40.2-08. Specific limitations on agreements. Nothing in this chapter may be construed to ~~authorize an agreement that:~~

1. ~~Enlarges~~ Authorize as agreement that enlarges or diminishes the jurisdiction over civil or criminal matters that may be exercised by either North Dakota or tribal governments located in North Dakota.
2. ~~Authorizes~~ Authorize a public agency or tribal government, either separately or pursuant to agreement, to expand or diminish the jurisdiction presently exercised by the government of the United States to make criminal laws for or enforce criminal laws in Indian country.

* NOTE: Section 54-40.2-05.1 was also amended by section 11 of Senate Bill No. 2073, chapter 600.

3. ~~Authorizes~~ Authorize a public agency or tribal government to enter into an agreement except as authorized by their own organizational documents or enabling laws.
4. ~~Provides~~ Authorize an agreement that provides for the alienation, financial encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States.

SECTION 9. AMENDMENT. Section 54-40.2-09 of the North Dakota Century Code is amended and reenacted as follows:

54-40.2-09. Validity of existing agreements.

- ~~1- This chapter does not affect the validity of any agreement entered into between a tribe and a public agency prior to July 1, 1983-~~
- ~~2- However, any such agreement must satisfy the requirements of this chapter no later than January 1, 1985 the effective date of this Act.~~

SECTION 10. REPEAL. Section 54-40.2-03 of the North Dakota Century Code is repealed.

Approved April 3, 1991
Filed April 4, 1991

CHAPTER 607

SENATE BILL NO. 2101
(Committee on State and Federal Government)
(At the request of the State Personnel Board)

PERSONNEL BOARD COMPOSITION AND HEARINGS

AN ACT to amend and reenact section 54-42-01 and subsection 3 of section 54-44.3-07 of the North Dakota Century Code, relating to the state personnel board constituting the merit system council and the authority of the state personnel board to hear and decide appeals from agency employer actions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-42-01 of the North Dakota Century Code is amended and reenacted as follows:

54-42-01. North Dakota merit system council. There shall be a North Dakota merit system council to which shall consist of the state personnel board and the central personnel division provided for in section 54-44.3-03. The director of the central personnel division must be the director of and secretary to the merit system council, serving in a nonvoting capacity. The central personnel division must be the secretariat to the merit system council.

SECTION 2. AMENDMENT. Subsection 3 of section 54-44.3-07 of the North Dakota Century Code is amended and reenacted as follows:

3. Review any personnel action relating to pay ranges or job classification. Hear, consider, and determine appeals by nonprobationary employees in the classified service from agency grievance procedures under section 54-44.3-12.2 related to position classifications, pay grade assignments, merit system qualification, discrimination, reprisals, reduction-in-force, forced relocation, demotion with loss of pay, suspension without pay, and dismissal. The board may assign the initial hearing of an appeal to an administrative hearing officer for the receipt of evidence and the preparation of findings of fact, conclusions of law, and a recommended decision under chapter 28-32. The board's decision on an appeal shall resolve the issues presented between the employer and employee, and the board may order any needed remedy, including affirming, modifying, or reversing the employer's decision, vacating suspensions, directing back pay and adjustments to back pay, and reinstatement to the classified service.

Approved March 14, 1991
Filed March 15, 1991

CHAPTER 608

SENATE BILL NO. 2102
(Committee on State and Federal Government)
(At the request of the Central Personnel Division)

CENTRAL PERSONNEL AND MERIT SYSTEM DUTIES

AN ACT to amend and reenact section 54-42-03 and subsection 1 of section 54-44.3-12 of the North Dakota Century Code, relating to the duties of the director of the central personnel division and the powers and duties of the merit system council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-42-03 of the North Dakota Century Code is amended and reenacted as follows:

54-42-03. Powers and duties. The director of the merit system council shall establish general policies, and rules, and regulations subject to the approval of the council, which are binding on the agencies affected. Those rules must cover such items as:

1. The positions to be covered by and exempted from the merit system.
2. ~~The establishing and maintenance of classification and compensation plans.~~
3. ~~Applications and examinations.~~
4. ~~3.~~ The establishing of lists of eligibles, certifications, and appointments.
5. ~~4.~~ Promotions, ~~transfers,~~ and demotions.
6. ~~5.~~ ~~Separations, tenure, and Reinstatements.~~
7. ~~Appeals.~~
8. ~~Attendance and leave.~~
9. ~~6.~~ Review of agency payrolls ~~by the merit system.~~
10. ~~7.~~ Any other procedures necessary for the administration of the personnel program on a merit basis.

The council has the authority to do all things necessary to carry out the provisions of this chapter, in regard to any agency designated by law to be subject to the complete merit system provided in this chapter. In addition thereto, the council shall provide such limited services as the legislative assembly by law shall direct in regard to a limited merit system or limited

merit system services for any agency of this state or its political subdivisions.

SECTION 2. AMENDMENT. Subsection 1 of section 54-44.3-12 of the North Dakota Century Code is amended and reenacted as follows:

1. Establish general policies, rules, and regulations, subject to the approval of the board, which are binding on the agencies affected, and which apply to the employees in the classified service. These rules must include the establishing and maintenance of classification and compensation plans. provide for:
 - a. Establishing and maintaining a classification plan.
 - b. Establishing and maintaining a compensation plan.
 - c. Promoting a consistent application of personnel policies.
 - d. Enhancing greater uniformity in matters relating to probationary periods, hours of work, leaves of absence, separations, transfers, disciplinary actions, grievance procedures, and performance management.
 - e. Ensuring fair treatment and compliance with equal employment opportunity and nondiscrimination laws.

Approved March 18, 1991
Filed March 19, 1991

CHAPTER 609

SENATE BILL NO. 2241
(Committee on State and Federal Government)
(At the request of the Office of Management and Budget)

OFFICE OF MANAGEMENT AND BUDGET REPORTS

AN ACT to amend and reenact section 54-44-04 of the North Dakota Century Code, relating to the powers and duties of the director of the office of management and budget.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-44-04 of the North Dakota Century Code is amended and reenacted as follows:

54-44-04. Powers and duties of the director of the office of management and budget. The director of the office of management and budget, or such subordinate officer as ~~he~~ the director shall designate:

- ~~1. to 4. Repealed by S.L. 1965, ch. 350, § 20.~~
- ~~5.~~ Shall examine the budget affecting the legislative and judicial branches of the state government, but only for the purpose of determining the sufficiency of funds to meet the contemplated expenditures of these branches of state government or their officers or agencies.
- ~~6. and 7. Repealed by S.L. 1965, ch. 350, § 20.~~
- ~~8.~~ 2. Shall keep the general accounts, reflecting for each fund the resources and balance, together with current revenues and expenditures, and shall provide for an accrual accounting system.
- ~~9.~~ 3. Shall, acting as director of the office of the budget, process all claims for submittal to the office of management and budget, which may conduct the preaudit of all claims from the executive branch of the government before payment and the director shall conduct the current audit of all revenues, which must include the supervision of the collection of all moneys due the state.
- ~~10. Repealed by S.L. 1979, ch. 541, § 2.~~
- ~~11.~~ 4. Except as otherwise provided by law, shall prepare warrants for payment of all claims ~~from the executive branch of government, when approved by the office of the budget, and for payment of all claims from the judicial and legislative branches.~~
- ~~11-1.~~ 5. May, in anticipation of federal revenues to be received within fifteen days, prepare warrants to be signed by the state auditor in payment of duly authorized vouchers even though funds at such time

do not exist to honor the warrants. Warrants so issued shall be payable by the state treasurer out of any funds in the treasurer's hands other than sinking funds or funds dedicated by the Constitution of North Dakota for other purposes.

- ~~+2-~~ 6. Is vested with the duties, powers, and responsibilities involved in the development and installation of financial records and procedures for all state departments and agencies.
- ~~+2-1-~~ 7. Shall coordinate the development of accounting and financial related systems.
- ~~+2-2-~~ 8. Shall create an accounting manual and provide sufficient training of current and potential users concerning the functions and use of a statewide accounting and reporting system.
- ~~+2-3-~~ 9. Shall provide for the maintaining of accounting records which will identify the revenues and expenditures of the state in accordance with the requirements of the state's central accounting system.
- ~~+2-4-~~ 10. Shall provide for expenditures from general and special fund appropriations to be made in accordance with the requirements of the state's central accounting system.
- ~~+2-5-~~ 11. May provide for federal fund receipts and disbursements to be deposited and disbursed from a state federal fund in accordance with the requirements of the state's central accounting system.
- ~~+3-~~ 12. Shall conduct such interval audits of accounts in the several departments of the state as ~~he~~ the director shall deem necessary.
- ~~+4-~~ 13. Shall issue current reports to administrative officials concerning the status of revenue, expenditures, and appropriation accounts, and shall make periodic financial reports to the governor, administrative officials, the legislative assembly, and the public.
- ~~+4-1-~~ 14. Shall prepare on an annual basis comprehensive financial statements of the state of North Dakota.
- 15. ~~Shall submit a biennial report as prescribed by section 54-06-04 to the governor and the office of management and budget covering the activities of all the divisions of the office. In addition to any requirements established pursuant to section 54-06-04, the report must include a statement of the funds of the state, the revenues of the state, and public expenditures during the two preceding fiscal years.~~
- ~~+6-~~ Shall accompany his biennial report with tabular statements showing the amount of each appropriation for the two preceding fiscal years, the amount expended, and the balance, if any, and also the amount of revenue chargeable to each county for such years, the amount paid, and the amount unpaid or due therefrom.
- ~~+7-~~ Shall, when requested, give information in writing to either house of the legislative assembly relating to the fiscal affairs of the state or to the administration of his the office of management and budget.

- ~~16-~~ 16. Shall submit to the governor at the close of each business day, or at such times as the governor may request, a report showing the current condition of each fund and appropriation.
- ~~19-~~ 19. Shall keep an account with each organized county of the state in which each county must be charged with the amount of delinquent taxes due to the state; and with all sums levied in such county for state purposes; and must be credited with all sums paid into the state treasury on account of such taxes.
- ~~20-~~ 17. Shall keep an account between the state and state treasurer, and charge the state treasurer therein with the balance in the treasury when ~~he~~ the treasurer came into office, and with all moneys received by the state treasurer, and credit ~~him~~ the treasurer with all warrants drawn on and paid by ~~him~~ the treasurer.
- ~~21-~~ 18. Is vested with the duties, powers, and responsibilities involved in the operation of a centralized purchasing service.
- ~~22-~~ 19. Shall maintain and operate such supply rooms as may be found desirable to supply the several departments with office supplies and other commonly used commodities; however, this subsection may not be construed as authorizing the establishment of a warehousing system.
- ~~22.1-~~ 20. Shall distribute federal and state surplus property pursuant to sections 54-44-04.5 and 54-44-04.6.
- ~~23-~~ 21. Shall establish and operate a central duplicating service and central mechanical or electronic data processing facilities.
- ~~24-~~ 22. Shall perform such other duties as are or may be prescribed by law.

Approved March 14, 1991
Filed March 15, 1991

CHAPTER 610

SENATE BILL NO. 2123
(Committee on Political Subdivisions)
(At the request of the Office of Management and Budget)

STATE SURPLUS PROPERTY TRANSFERS

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-44-04.6 of the North Dakota Century Code is amended and reenacted as follows:

54-44-04.6. State surplus property - Department heads to inform director - Disposition of property - Proceeds - Exchange of property.

1. The person in charge of any department, agency, or institution of the state shall inform the director of the office of management and budget or the director's designee whenever that department, agency, or institution possesses surplus property surplus to its needs, whether originally obtained with state or federal other funds, and the person in charge believes that the state surplus property may be used by any other department, agency, institution, or political subdivision of the state.
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 administrative expenses, which must be paid by the receiving agency. When the state surplus property was originally purchased 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 under this subdivision 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. State surplus property must be transferred at fair market value to state agencies, political subdivisions, and nonprofit organizations eligible to receive federal surplus property under the Federal Property Administrative Services Act of 1949, as amended. Eligible organizations must be notified of the availability of property on a regular basis.

3. If not disposed of under subdivision a or b subsection 2, then by sale on sealed bids or at public auction to the highest and best 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.
- ~~3-~~ 4. All proceeds of property sold under this section, less sales costs, must be deposited in the general fund except as provided in subdivision a of subsection 2 received from the transfer or sale of state surplus property must be deposited into the fund from which the property was originally purchased, less administrative expenses.
- ~~4-~~ 5. No department, agency, or institution may exchange items as part of a purchase price of new items until a detailed statement of the value of the items to be exchanged and request for approval have been submitted to the director of the office of management and budget. The director shall approve the exchange only if the director has determined that the item has been valued at fair value.

Approved March 14, 1991
Filed March 15, 1991

CHAPTER 611

SENATE BILL NO. 2141
(Committee on State and Federal Government)
(At the request of the Office of Management and Budget)

STATE VEHICLE PURCHASE

AN ACT to repeal section 54-44-04.8 of the North Dakota Century Code, relating to the purchase of state motor vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 54-44-04.8 of the North Dakota Century Code is repealed.

Approved March 11, 1991
Filed March 11, 1991

CHAPTER 612

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

SPECIAL FUND ACCOUNTING

AN ACT to amend and reenact section 54-44-04.9 of the North Dakota Century Code, relating to financial report for any state department, agency, board, commission, college, university, or institution.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-44-04.9 of the North Dakota Century Code is amended and reenacted as follows:

54-44-04.9. Financial reporting. To ensure that sufficient information is provided to the office of management and budget for preparing an annual comprehensive financial statement and to ensure that the statewide accounting system and budget system are compatible, the person in charge of any department, agency, board, commission, college, university, or institution shall report all revenues and expenditures through the use of the statewide accounting system. The revenues and expenditures referred to in this section include all funds, including funds not appropriated. ~~Any changes to the present reporting system of the department, agency, board, commission, college, university, or institution necessary to comply with this section must be completed by July 1, 1989.~~

Notwithstanding any other provision of law, if any statutory provision provides for maintenance of a special fund in the state treasury the office of management and budget may require that it not be maintained as a separate fund in the state treasury but that it be maintained as a separate account for accounting purposes.

Any department, agency, board, commission, college, university, or institution that is not presently using the statewide payroll system shall provide the director with current salary information for all permanent and part-time employees when required to do so, in the format designed by the director.

Approved March 27, 1991
Filed March 28, 1991

CHAPTER 613

HOUSE BILL NO. 1219
 (Committee on Transportation)
 (At the request of the Office of Management and Budget)

CIVIL AIR PATROL

AN ACT to create and enact a new section to chapter 54-45 of the North Dakota Century Code, relating to the civil air patrol; to amend and reenact sections 54-45-03, 65-06.1-01, and 65-06.1-02 of the North Dakota Century Code, relating to the civil air patrol; and to repeal sections 54-45-01, 54-45-02, and 54-45-04 of the North Dakota Century Code, relating to the civil air patrol.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-45 of the North Dakota Century Code is created and enacted as follows:

"Civil air patrol" defined - Declaration of policy. "Civil air patrol" means the private nonprofit corporation chartered under federal law [36 U.S.C. 201-208]. It is the purpose of this chapter to declare the intent of the state of North Dakota to continue to provide financial support to the North Dakota wing of the civil air patrol to enable the civil air patrol to continue to provide to the state of North Dakota communications services, cadet training, disaster relief, search and rescue missions or assistance, and other related functions within the scope of the activity of the civil air patrol and administrative support personnel necessary to support these services and functions.

SECTION 2. AMENDMENT. Section 54-45-03 of the North Dakota Century Code is amended and reenacted as follows:

54-45-03. Expenditure of funds - Limitation. The commanding officer, North Dakota wing, civil air patrol, may issue vouchers covering all expenditures of funds of the department, and the state auditor shall issue his warrant therefor in the same manner as other state funds are expended. There may be expended from the moneys appropriated to the department only such sums as are needed to purchase adequate communications systems; the upkeep of said communications systems; maintenance of aircraft and vehicles owned by civil air patrol and provided that only such sums may be expended for procurement of equipment or replacement not otherwise obtainable by grant or gift from any other source expend appropriated grant funds as administered by the aeronautics commission. A report of expenditure of grant funds must be issued to the aeronautics commission annually. A general fund grant line item must be appropriated within the aeronautics commission's budget. These funds may be expended to support the mission of the civil air patrol as determined by the commanding officer. No funds may be expended for uniforms or personal equipment of any member of the civil air patrol or for the purchase of aircraft or motor vehicles; nor may any money be paid out of appropriated funds for any salaries, except for secretarial or administrative

support personnel. The commanding officer is authorized to apply for and accept federal funds for use in funding secretarial or administrative support personnel. All state equipment on inventory with the civil air patrol on the effective date of this Act and related to the mission of the civil air patrol must be transferred to the North Dakota wing of the civil air patrol.

SECTION 3. AMENDMENT. Section 65-06.1-01 of the North Dakota Century Code is amended and reenacted as follows:

65-06.1-01. "Civil air patrol member" defined. "Civil air patrol member" means a volunteer civilian member of the ~~department of~~ civil air patrol engaged in official state activities authorized under chapter 54-45.

SECTION 4. AMENDMENT. Section 65-06.1-02 of the North Dakota Century Code is amended and reenacted as follows:

65-06.1-02. Civil air patrol members declared employees - Covered by ~~workmen's workers'~~ compensation. Civil air patrol members ~~shall be~~ are deemed employees of the ~~department of~~ civil air patrol and eligible for coverage under this title when engaged in official state activities authorized under chapter 54-45.

SECTION 5. REPEAL. Sections 54-45-01, 54-45-02, and 54-45-04 of the North Dakota Century Code are repealed.

Approved April 8, 1991
Filed April 8, 1991

CHAPTER 614

HOUSE BILL NO. 1104
 (Committee on State and Federal Government)
 (At the request of the Office of Management and Budget)

RECORDS ADMINISTRATION

AN ACT to create and enact a new section to chapter 54-46 of the North Dakota Century Code, relating to continued confidentiality of records; to amend and reenact subsection 3 of section 54-44-11, sections 54-44.6-03, 54-46-03, 54-46-05, 54-46.1-01, 54-46.1-04, and 54-46.1-05 of the North Dakota Century Code, relating to records administration and management; and to repeal section 54-46.1-02 of the North Dakota Century Code, relating to transfer of equipment when the central microfilm unit was created.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Subsection 3 of section 54-44-11 of the North Dakota Century Code is amended and reenacted as follows:

3. The office of management and budget shall establish a state information services operating fund to be used for the procurement and maintenance of data processing equipment and supplies and, telecommunications equipment and supplies, and central microfilm unit equipment and supplies, and for providing data processing and, telecommunication, and central microfilm unit services to state departments and agencies.

SECTION 2. AMENDMENT. Section 54-44.6-03 of the North Dakota Century Code is amended and reenacted as follows:

54-44.6-03. State forms manager. The director of the office of management and budget ~~may appoint a state forms manager; or, in the alternative,~~ or an individual designated by the director shall serve as the state forms manager. The manager shall administer in the executive branch of state government the forms management program established by this chapter. The program must apply efficient and economical management methods to the creation and utilization of state forms.

SECTION 3. AMENDMENT. Section 54-46-03 of the North Dakota Century Code is created and enacted as follows:

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

* NOTE: Section 54-44-11 was also amended by section 1 of Senate Bill No. 2131, chapter 615.

SECTION 4. AMENDMENT. Section 54-46-05 of the North Dakota Century Code is amended and reenacted as follows:

54-46-05. Duties of agency ~~or department~~ heads. The head of each agency ~~or department~~ shall:

1. Establish and maintain an active, continuing program for the economical and efficient management of the records of the agency.
2. Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency's activities.
3. Submit to the administrator, in accordance with the standards ~~established~~ adopted by ~~him~~ the administrator, schedules proposing the length of time each state record series warrants retention for administrative, legal, or fiscal purposes after it has been received by the agency. ~~The head of each agency also shall submit~~
4. ~~Submit to the administrator~~ lists of state records in ~~his~~ the custody ~~that~~ of the agency which are not needed in the transaction of current business and ~~that~~ which do not have administrative, legal, or fiscal value.
- ~~4.~~ 5. Cooperate with the administrator in the conduct of surveys made by ~~him~~ the administrator pursuant to ~~the provisions of~~ this chapter.
- ~~5.~~ 6. Comply with the rules, ~~regulations,~~ standards, and procedures ~~issued~~ adopted by the administrator.

SECTION 5. A new section to chapter 54-46 of the North Dakota Century Code is created and enacted as follows:

Continued confidentiality of records. The head of an agency may provide, and the administrator may receive, any record necessary to effect the purposes of this chapter without regard to the confidential or secret nature of the information in the record. However, the administrator and agents or employees of the administrator involved with records management under this chapter are subject to the same restrictions and penalties regarding the dissemination of the information as are the personnel of the agency involved.

SECTION 6. AMENDMENT. Section 54-46.1-01 of the North Dakota Century Code is amended and reenacted as follows:

54-46.1-01. Central microfilm unit. ~~The director of the office of management and budget, as state records administrator,~~ shall establish and maintain a central microfilm unit and microfilm any record of any state office, agency, or department in either the executive, legislative, or judicial branch of state government, ~~if he shall determine~~ the administrator determines the cost of such microfilming is reasonable in relation to the record's historical significance or the frequency and type of use of the record. Each office, agency, and department shall reimburse the central microfilm unit for the actual costs incurred in microfilming its records.

which collections must be deposited in the general fund in the state treasury. Expenditures required for the operation of the central microfilm unit must be made from the general fund and are limited to the amounts appropriated by the legislative assembly. The administrator shall deposit moneys received under this section in the information services operating fund. The administrator shall employ professional, technical, and clerical personnel as he deems the administrator determines to be necessary to carry out the duties prescribed in this chapter and shall, within the limits of the legislative appropriation, shall fix the salaries of all employees within the central microfilm unit. All personnel within the central microfilm unit must be allowed their actual and necessary travel expenses at the same rate as for other employees of the state. ~~The central microfilm unit must be located in the state capitol.~~ The administrator may perform microfilm services for ~~the any state institutions~~ institution and for any county, when they request the institution or county requests such services, and the administrator agrees that the request is consistent with good records management practices.

SECTION 7. AMENDMENT. Section 54-46.1-04 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 8. AMENDMENT. Section 54-46.1-05 of the North Dakota Century Code is amended and reenacted as follows:

54-46.1-05. Restriction on purchases and contracts for microfilm equipment and services - Alternative services. ~~No~~ Except for the institutions and entities under the jurisdiction of the board of higher education, no state office, agency, or department located in the city of Bismarck may enter into any contract or agreement for the purchase or lease of any microfilm equipment or services without the express approval of the state records administrator. The administrator may authorize an office, agency, or department to make other arrangements for microfilm services if the central microfilm unit is unable to perform the services required or if, in the administrator's judgment, the special needs of the office, agency, or department justify such an authorization.

SECTION 9. REPEAL. Section 54-46.1-02 of the North Dakota Century Code is repealed.

Approved March 11, 1991
Filed March 11, 1991

CHAPTER 615

SENATE BILL NO. 2131

(Committee on Appropriations)

(At the request of the Office of Management and Budget)

STATE PURCHASING OPERATING FUND

AN ACT to amend and reenact section 54-44-11 of the North Dakota Century Code, relating to the office of management and budget operating funds creation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 54-44-11 of the North Dakota Century Code is amended and reenacted as follows:

54-44-11. Office's operating funds creation.

1. The office of management and budget shall establish a state purchasing operating fund to be used for the procurement and maintenance of an inventory of equipment and supplies for the state departments and agencies. ~~Any surplus in this fund in excess of one hundred thousand dollars on June thirtieth of each year must be transferred to the state general fund-~~
2. The office of management and budget shall establish a state printing operating fund to be used for the procurement and maintenance of an inventory of printing equipment and supplies for the state departments and agencies.
3. The office of management and budget shall establish a state 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.
4. The office of management and budget shall establish a state personnel training and development operating fund to be used for the coordination of employee training and career development data, supplies, equipment, and services and for providing or arranging necessary training and development programs to state departments and agencies. Any surplus in this fund in excess of twenty-five thousand dollars on June thirtieth of each year must be transferred to the state general fund.
5. Each office, agency, or institution provided with ~~purchasing~~, printing, 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,

* NOTE: Section 54-44-11 was also amended by section 1 of House Bill No. 1104, chapter 614.

based on actual costs and actual usage. The amounts paid to the office of management and budget by the various offices, agencies, and institutions must be deposited in the appropriate operating fund and must be expended in accordance with legislative appropriations.

Approved March 11, 1991
Filed March 11, 1991

CHAPTER 616

HOUSE BILL NO. 1096
(Committee on State and Federal Government)
(At the request of the Office of Management and Budget)

SAN HAVEN PROPERTY TRANSFER

AN ACT to create and enact a new section to chapter 54-44 of the North Dakota Century Code, authorizing the selling, leasing, exchanging, or transferring of title of san haven properties by the director of the office of management and budget; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-44 of the North Dakota Century Code is created and enacted as follows:

Director may sell, lease, exchange, or transfer title or use to all or part of the san haven properties. The director of the office of management and budget, with the approval of the governor, is authorized to sell, lease, exchange, or transfer title or use of any part or all of the san haven facilities and properties, located in sections nineteen, twenty-nine, and thirty, township one hundred sixty-two north, range seventy-two west, located in Rolette County, North Dakota, to the federal government or any public or private agency, organization, or business enterprise or any worthy undertaking, under the following provisions:

1. The transaction is exempt from the provisions of sections 54-01-05.2 and 54-01-05.5.
2. All required legal documents, papers, and instruments in any transaction must be reviewed and approved as to form and legality by the attorney general.
3. Any funds realized by any transaction must be deposited in the state's general fund.

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

Approved March 11, 1991
Filed March 11, 1991

CHAPTER 617

HOUSE BILL NO. 1161
(Committee on State and Federal Government)
(At the request of the Office of Management and Budget)

BUDGET REQUEST DUE DATES

AN ACT to amend and reenact section 54-44.1-13 of the North Dakota Century Code, relating to the date the budget requests for the legislative and judicial branches are submitted.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-44.1-13 of the North Dakota Century Code is amended and reenacted as follows:

54-44.1-13. Budget requests for legislative and judicial branches. The budget requests and expenditures for the legislative and judicial branches of this state are not subject to the provisions of this chapter and such budget requests must be submitted directly to the legislative assembly with informational copies of such budgets provided to the director of the budget not later than November eighth for the judicial branch and November fifteenth for the legislative branch in each even-numbered year preceding a session of the legislative assembly.

Approved March 27, 1991
Filed March 28, 1991

CHAPTER 618

SENATE BILL NO. 2242
(Committee on Political Subdivisions)
(At the request of the Lieutenant Governor)

STATEWIDE ELECTRONIC COMMUNICATIONS NETWORK

AN ACT to create and enact a new subsection to section 54-44.2-02 of the North Dakota Century Code, relating to the duties of the information services division.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 54-44.2-02 of the North Dakota Century Code is created and enacted as follows:

Provide advice, general guidelines, and information to political subdivisions on the compatibility and interactive capacity of computers and other electronic information systems with the goal of developing a statewide compatible electronic communications network by 1996.

Approved March 14, 1991
Filed March 15, 1991

CHAPTER 619

HOUSE BILL NO. 1543
(Representatives Dalrymple, Flaagan)
(Senator Satrom)

ACCOUNTING AND RECORDS SYSTEM GRANTS

AN ACT to create and enact a new section to chapter 54-44.2 of the North Dakota Century Code, relating to a grant program to assist counties in developing a uniform accounting and records maintenance system; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-44.2 of the North Dakota Century Code is created and enacted as follows:

Accounting and records maintenance grant program. The information services division shall establish a grant program to assist counties in developing a uniform accounting and records maintenance system. A county may apply to the information services division for a grant of up to five thousand dollars, which must be used for the purchase of data processing equipment or for contracting for training on the use of data processing equipment. A county awarded a grant under this section shall match or exceed the grant amount with county moneys. Any data processing equipment purchased and any training contracted for with funds granted under this section must be approved by the information services division after consultation with the North Dakota association of counties. The information services division, after consultation with the North Dakota association of counties, shall establish guidelines for the review of grant applications and the distribution of grants.

SECTION 2. APPROPRIATION. There is hereby appropriated out of any moneys in the state aid distribution fund in the state treasury, not otherwise appropriated, the sum of \$100,000, or so much thereof as may be necessary, to the information services division for the purpose of providing grants under section 1 of this Act for the biennium beginning July 1, 1991, and ending June 30, 1993.

Approved April 3, 1991
Filed April 4, 1991

CHAPTER 620

HOUSE BILL NO. 1026
(Legislative Council)
(Advisory Commission on Intergovernmental Relations)

MERIT SYSTEM EFFECT FOR COUNTIES

AN ACT to amend and reenact section 54-44.3-12.1 of the North Dakota Century Code, relating to the effective date of compensation plan revisions for county employees covered by the state merit system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-44.3-12.1 of the North Dakota Century Code is amended and reenacted as follows:

54-44.3-12.1. Revisions to compensation plan. Revisions to the compensation plan may only be made on July first, following the close of a regular legislative session, except that new classifications may be added to the compensation plan during a biennium when deemed necessary by the director. Revisions to the compensation plan do not become effective for county employees covered by the plan until January first of the first full calendar year following the revision. Revisions to the compensation plan may only be made to the extent the legislative assembly appropriates funds to implement such plans.

Approved March 25, 1991
Filed March 26, 1991

CHAPTER 621

SENATE BILL NO. 2130
(Committee on State and Federal Government)
(At the request of the Office of Management and Budget)

STATE BIDDING PROCEDURE PUBLICATION

AN ACT to amend and reenact section 54-44.4-05 of the North Dakota Century Code, relating to publication of procedures on competitive bidding on purchases by the state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-44.4-05 of the North Dakota Century Code is amended and reenacted as follows:

54-44.4-05. Competitive bidding on purchases. Except as otherwise provided in section 44-08-01 and section 25-16.2-02, purchasing contracts must be awarded to the lowest responsible bidder considering conformity with specifications, terms of delivery, and quality and serviceability. The office of management and budget may reject any or all bids or negotiate for a lower price with a successful bidder. ~~The office of management and budget shall publish at least once per year in each official county newspaper in the state the procedures to be followed to sell goods and materials to state agencies, departments, and institutions.~~ Each bid received, with the name of the bidder, must be recorded.

Approved March 14, 1991
Filed March 15, 1991

CHAPTER 622

HOUSE BILL NO. 1285
(Representatives Ring, Schindler, Pyle)
(Senators Thane, Mushik, Robinson)

STATE USE OF RECYCLED PAPER

AN ACT to create and enact a new section to chapter 54-44.4 of the North Dakota Century Code, relating to purchase of paper or paper products containing recycled material for use by state entities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-44.4 of the North Dakota Century Code is created and enacted as follows:

Purchase of recycled paper products. The office of management and budget, and any state agency or institution that has authority to purchase products, shall ensure that beginning July 1, 1993, at least ten percent of the total volume of paper and paper products being purchased for state agencies and institutions contain at least twenty-five percent recycled material; beginning January 1, 1994, at least thirty percent of the total volume of paper and paper products being purchased contain at least twenty-five percent recycled material; beginning January 1, 1996, at least forty percent of the total volume of paper and paper products being purchased contain at least twenty-five percent recycled material; beginning January 1, 1998, at least sixty percent of the total volume of paper and paper products being purchased contain at least twenty-five percent recycled material; and beginning January 1, 2000, at least eighty percent of the total volume of paper and paper products being purchased contain at least twenty-five percent recycled material.

Approved April 2, 1991
Filed April 4, 1991

CHAPTER 623

SENATE BILL NO. 2134
(Committee on Appropriations)
(At the request of the Office of Intergovernmental Assistance)

COMMUNITY DEVELOPMENT LOAN FUND

AN ACT to create and enact a new section to chapter 54-44.5 of the North Dakota Century Code, relating to a continuing appropriation to the office of intergovernmental assistance; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-44.5 of the North Dakota Century Code is created and enacted as follows:

Continuing appropriation. There is hereby appropriated as a standing and continuing appropriation to the office of intergovernmental assistance for the purpose of carrying out the provisions of chapter 54-44.5 of the North Dakota Century Code, including the administration of such provisions, all moneys returned as repayments of federal or other funds granted under the community development loan fund, and all earnings from the investment of such moneys, which may be received from time to time by the office. Administrative expenses may only be charged against such moneys to the extent permitted by federal law or regulations.

SECTION 2. EFFECTIVE DATE. This Act is retroactively effective to January 1, 1990.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 5, 1991
Filed April 8, 1991

CHAPTER 624

SENATE BILL NO. 2129
(Committee on State and Federal Government)
(At the request of the Office of Management and Budget)

OPTICAL DATA RECORD STORAGE

AN ACT to create and enact a new section to chapter 54-46.1 of the North Dakota Century Code, relating to optical data storage processes; and to amend and reenact section 31-08-01.1, subsections 3 and 4 of section 41-09-42, subsection 2 of section 41-09-43, sections 54-24-09, 54-46.1-03, 54-46.1-06, and subsection 5 of section 55-02-01.2 of the North Dakota Century Code, relating to optical data storage of records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 31-08-01.1 of the North Dakota Century Code is amended and reenacted as follows:

31-08-01.1. ~~Photographic~~ Certain copies of business and public records admissible in evidence. If any business, institution, member of a profession or calling, or any department or agency of government in the regular course of business or activity has kept or recorded any memorandum, writing, entry, print, representation, or combination thereof, of any act, transaction, occurrence, or event, and in the regular course of business has caused any or all of the same to be recorded, copied, or reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic, optical disk, or other process which accurately reproduces or forms a durable medium for so reproducing the original, the original may be destroyed in the regular course of business unless its preservation is required by law. Such reproduction, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not and an enlargement or facsimile of such reproduction is likewise admissible in evidence if the original reproduction is in existence and available for inspection under direction of court. The introduction of a reproduced record, enlargement, or facsimile does not preclude admission of the original.

SECTION 2. AMENDMENT. Subsections 3 and 4 of section 41-09-42 of the 1989 Supplement to the North Dakota Century Code are amended and reenacted as follows:

3. A continuation statement may be filed by the secured party within six months prior to the expiration of the five-year period specified in subsection 2. Any such continuation statement must be signed by the secured party, identify the original statement by file number, and state that the original statement is still effective. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection 2 of section 41-09-40,

including payment of the required fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective, whereupon it lapses in the same manner as provided in subsection 2 unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it immediately if he the filing officer has retained a microfilm or other photographic or optical disk record, or in other cases after one year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if he the filing officer physically destroys the financing statements of a period more than five years past, those which have been continued by a continuation statement or which are still effective under subsection 6 shall be retained.

4. Except as provided in subsection 7, a filing officer shall mark each statement with a file number and with the date and hour of filing and shall hold the statement or a microfilm or other photographic copy or optical disk record thereof for public inspection. In addition, the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.

* SECTION 3. AMENDMENT. Subsection 2 of section 41-09-43 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. On presentation to the filing officer of such a termination statement, he must the filing officer shall note it in the index. If he the filing officer has received the termination statement in duplicate, he the filing officer shall return one copy of the termination statement to the secured party stamped to show the time of receipt thereof. If the filing officer has a microfilm or other photographic or optical disk record of the financing statement, and of any related continuation statement, statement of assignment, and statement of release, he the filing officer may remove the originals from the files at any time after receipt of the termination statement, or if he the filing officer has no such record, he the filing officer may remove them from the files at any time after one year after receipt of the termination statement.

SECTION 4. AMENDMENT. Section 54-24-09 of the North Dakota Century Code is amended and reenacted as follows:

54-24-09. Distribution of certain state publications for certain libraries required. The state purchasing and printing agent shall arrange to deposit with the state library eight copies of all publications issued by all executive, legislative, and judicial agencies of state government intended for general public distribution. These publications must be provided to the state library without charge. Should expense and limited supply of state publications, particularly audiovisual items, make strict compliance with the

* NOTE: Section 41-09-43 was also amended by section 19 of Senate Bill No. 2024, chapter 449.

depository requirement impossible, the state library shall accept as many copies as an agency can afford to provide. However, no less than two copies must be provided to the state library by each agency. State publications refer to any informational materials regardless of format, method of reproduction, or source, originating in or produced with the imprint of, by the authority of, or at the total or partial expense of, any state agency. The definition incorporates those publications that may or may not be financed by state funds but are released by private bodies such as research and consultant firms under contract with or supervision of any state agency. In circumstances not directly involving the state purchasing and printing agent, a state agency shall comply with the depository requirement by arranging with the necessary parties for the printing and deposit of eight copies of any state publication issued. State publications are specifically defined as public documents appearing as reports, directories, statistical compendiums, bibliographies, laws or bills, rules, regulations, newsletters, bulletins, state plans, brochures, periodicals, committee minutes, transcripts of public hearings, other printed matter, audiotapes, videotapes, films, filmstrips, or slides, but not those administrative or training materials used only within the issuing agency. As the document acquisition and distribution agency, the state library shall retain for its own use two copies of every state document received and transmit the remaining copies to the depository libraries. These are the libraries of the state historical board, the university of North Dakota, North Dakota state university, library of Congress, and two others to be designated by the state library. All nondepository North Dakota ~~academic, public, and special~~ libraries shall have the opportunity to receive state documents under an optional selection program developed by the state library. The state library shall catalog state publications and arrange for their conversion to microfilm or to optical disk storage prescribed by the state records administrator and shall make available for distribution the same to the designated depository libraries.

SECTION 5. A new section to chapter 54-46.1 of the North Dakota Century Code is created and enacted as follows:

Optical data storage authorized. Any public entity may adopt and use an optical data storage process for the storage of records by optical disk mediums when the use of the process is consistent with good records management practices. The state records administrator may prescribe such practices, except for specialized commercial data bases such as those used in libraries. As used in this chapter, an optical data storage process includes the optical disk software and hardware used in that process and the records stored by that process after the entity involved has established a records management program with respect to optical data storage.

SECTION 6. AMENDMENT. Section 54-46.1-03 of the North Dakota Century Code is amended and reenacted as follows:

54-46.1-03. Reproductions admissible in evidence - Preparation of ~~enlarged~~ copies. A photographic, microphotographic, or microfilm copy of any record, a paper or microfilm reproduction of any record stored by optical disk, or a certified copy thereof, is admissible as evidence in any court or proceeding and shall have has the same force and effect as though the original record has been produced and proved. It is the duty of the ~~The~~ custodian of such records to shall prepare enlarged copies of the microphotographic or microfilm copies of the records and paper copies of

records stored by optical disk and shall document the accuracy of the processes whenever their production is required by law.

SECTION 7. AMENDMENT. Section 54-46.1-06 of the North Dakota Century Code is amended and reenacted as follows:

54-46.1-06. Adoption of rules. The state records administrator may adopt rules to establish standard procedures and practices in the development and use of the central microfilm unit, including the proper use of any optical data storage process.

SECTION 8. AMENDMENT. Subsection 5 of section 55-02-01.2 of the North Dakota Century Code is amended and reenacted as follows:

5. Catalog, index, ~~or~~ microfilm, or store by optical disk medium all of the collections of the board for the more convenient references of all persons who have occasion to consult the same.

Approved March 14, 1991
Filed March 15, 1991

CHAPTER 625

SENATE BILL NO. 2194
(Committee on State and Federal Government)
(At the request of the Governor)

GOVERNMENT AGENCY EMPLOYEE EXCHANGES

AN ACT to amend and reenact sections 54-51-04 and 54-51-09 of the North Dakota Century Code, relating to the duration of exchange for the interchange of government employees and the salary or wage of those employees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-51-04 of the North Dakota Century Code is amended and reenacted as follows:

54-51-04. Duration of exchange. The period of individual assignment or detail under an interchange program may not exceed ~~twelve months, nor may any person be assigned or detailed for more than twelve months during any thirty six month period~~ four years. Details relating to any matter covered in this chapter may be the subject of an agreement between the sending and receiving agencies. Elected officials may not be assigned from a sending agency nor detailed to a receiving agency.

SECTION 2. AMENDMENT. Section 54-51-09 of the North Dakota Century Code is amended and reenacted as follows:

54-51-09. Status of employees of other governments. The following provisions control the status of any employees within the state ~~by virtue of~~ under this chapter:

1. When any unit of government of this state acts as a receiving agency, employees of the sending agency who are assigned under authority of this chapter may be considered to be on detail to the receiving agency.
2. Appointments of persons so assigned may be made without regard to the laws or regulations governing the selection of employees of the receiving agency. ~~Such~~ The person shall be in the unclassified service of the state.
3. Employees who are detailed to the receiving agency may not by virtue of ~~such the~~ detail be considered to be employees thereof, except as provided in subsection 4, ~~nor may they be paid a salary or wage by the receiving agency during the period of their detail~~. The supervision of the duties of ~~such those~~ employees during the period of detail may be governed by agreement between the sending agency and the receiving agency.

4. Any employee of a sending agency assigned in this state who suffers disability or death as a result of personal injury arising out of and in the course of such the assignment, or sustained in the performance of duties in connection therewith, must be treated as an employee for the purpose of the receiving agency's employee compensation program, ~~as an employee, as defined in such act, who has sustained such injury in the performance of such duty,~~ but may not receive benefits ~~under that act~~ for any period for which ~~he~~ the employee elects to receive similar benefits as an employee under the sending agency's employee compensation program.
5. A receiving agency may with the agreement of the sending agency pay an employee from a sending agency a full or supplemental salary or wage not to exceed the appropriate pay for an equivalent position in the receiving or sending agency.

Approved March 14, 1991
Filed March 15, 1991

CHAPTER 626

SENATE BILL NO. 2093
(Committee on Human Services and Veterans Affairs)
(At the request of the National Guard)

NATIONAL GUARD SECURITY AND FIREFIGHTER RETIREMENT

AN ACT to create and enact a new subsection to section 54-52-01 and a new section to chapter 54-52 of the North Dakota Century Code, relating to the definition of a national guard security officer or firefighter and contributions under the public employees retirement system; to amend and reenact section 37-03-04, subsection 3 of section 54-52-05, subsections 3 and 4 of section 54-52-17, and subsection 1 of section 54-52.1-03.2 of the North Dakota Century Code, relating to determination by the adjutant general of national guard membership requirements, retirement benefits of national guard security officers or firefighters under the public employees retirement system, and the retiree health benefits fund; and to provide for application of this Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-03-04 of the North Dakota Century Code is amended and reenacted as follows:

37-03-04. Assistance and expense of office - Payment of accounts. The adjutant general may have such necessary clerks, instructors, caretakers, employees, and laborers, within the limitations prescribed in appropriations made by the legislative assembly from time to time, as may be required. The adjutant general shall determine national guard membership requirements for employment. The expense of the adjutant general's department, including the salary of the adjutant general and of the assistant adjutant general, clerkhire, the cost of furniture, light, fuel, and postage, and other office expenses, must be paid from the general fund by warrants drawn by the state auditor on the state treasurer upon the order of the governor.

SECTION 2. A new subsection to section 54-52-01 of the 1990 Special Supplement to the North Dakota Century Code is created and enacted as follows:

"National guard security officer or firefighter" means a participating member who is:

- a. A security police employee of the North Dakota air national guard and who is a member of the national guard; or
- b. A firefighter employee of the North Dakota air national guard and who is a member of the national guard.

SECTION 3. AMENDMENT. Subsection 3 of section 54-52-05 of the North Dakota Century Code is amended and reenacted as follows:

3. Each employer, at its option, may pay the employee contributions required by subsection 2 and section 54-52-06.1 for all compensation earned after June 30, 1983, and may pay the employee contributions required by section 4 of this Act for all compensation earned after June 30, 1991. The amount paid must be paid by the employer in lieu of contributions by the employee. If the state decides not to pay the contributions, the amount that would have been paid will continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the employer, they shall not be included as gross income of the employee in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a contribution of a reduction in gross salary and offset against future salary increases. If employee contributions are paid by the employer, they must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made prior to the date on which employee contributions were assumed by the employer. An employer shall exercise its option under this subsection by July 15, 1983, and shall report its choice to the board in writing. The option chosen may not be revoked for the remainder of the biennium. Thereafter, the option choice must be forwarded to the board, in writing, by June fifteenth of each odd-numbered year.

SECTION 4. A new section to chapter 54-52 of the North Dakota Century Code is created and enacted as follows:

Contribution by national guard security officers or firefighters - Employer contribution. Each national guard security officer or firefighter who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The national guard security officer's or firefighter's employer shall contribute an amount equal to five and eighty-seven hundredths percent of the monthly salary of the employee. The employer's contribution must be paid from funds appropriated for salary or from any other funds available for such purposes. If the security officer's or firefighter's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required national guard security officer's or firefighter's assessment.

* SECTION 5. AMENDMENT. Subsections 3 and 4 of section 54-52-17 of the 1990 Special Supplement to the North Dakota Century Code are amended and reenacted as follows:

3. Retirement dates ~~must be~~ are defined as follows:
- a. Normal retirement date, except for a national guard security officer or firefighter is:

* NOTE: Section 54-52-17 was also amended by section 1 of House Bill No. 1185, chapter 631, and by section 3 of House Bill No. 1186, chapter 627.

- (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
 - (2) When the member has a combined total of years of service credit and years of age equal to ninety and has not received a retirement benefit under this chapter.
- b. Normal retirement date for a national guard security officer or firefighter is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty-five years and has completed at least five consecutive years of employment as a national guard security officer or firefighter immediately preceding retirement.
- c. Postponed retirement date, except for a national guard security officer or firefighter, is the first day of the month next following the month in which the member, on or after July 1, 1977, actually severs or has severed the member's employment after attaining the age of sixty-five years. For a national guard security officer or firefighter, postponed retirement date is the first day of the month next following the month in which the national guard security officer or firefighter actually severs or has severed employment after attaining the age of fifty-five years.
- ~~c-~~ d. Early retirement date, except for a national guard security officer or firefighter, 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 five years of eligible employment. For a national guard security officer or firefighter, early retirement date is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty years and has completed at least five years of eligible employment.
- ~~d-~~ e. 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 of the board, and has completed at least one hundred eighty days of eligible employment. A member is eligible to receive disability retirement benefits 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.
4. Retirement The board shall calculate retirement benefits must be calculated by the board as follows:
- a. Normal retirement benefits for all retirees, except supreme and district court judges, ~~reaching~~ and national guard security officers or firefighters normal retirement date must be equal

an annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which must be determined as follows:

- (1) Service benefit equals one and sixty-five hundredths percent of final average salary multiplied by the number of years of service employment.
 - (2) Prior service benefit equals one and 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, 1989, are entitled to benefits calculated at one and 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, 1989.
- b. Normal retirement benefits for all supreme and district court judges under the public employees retirement system reaching normal retirement date must be equal in an annual amount, payable monthly, comprised of a benefit as defined in this chapter, which must be determined as follows:
- (1) Benefits must be calculated from the time of appointment or election to the bench and must equal three percent of final average salary multiplied by the first ten years of judicial service, two percent of final average salary multiplied by the second ten years of judicial service, and one percent of final average salary multiplied by the number of years of judicial service exceeding twenty years.
 - (2) Service benefits must include, in addition, an amount equal to the percent specified in subdivision a of final average salary multiplied by the number of years of nonjudicial employee service and employment.
- c. Normal retirement benefits for all national guard security officers or firefighters under the public employees retirement system reaching normal retirement date for national guard security officers or firefighters is an annual amount payable monthly comprised of a benefit as defined in this chapter, determined as follows:
- (1) Service benefit equals one and sixty-five hundredths percent of final average salary multiplied by the number of years of service employment.
 - (2) Prior service benefit equals one and sixty-five hundredths percent of final average salary multiplied by the number of years of prior service employment.
- d. Postponed retirement benefits must be are calculated as for normal retirement benefits for those members who retired on or after July 1, 1977.

- d. e. Early retirement benefits must be are calculated as for normal retirement benefits accrued to the date of termination of employment, but 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 five years of eligible employment.
- e. f. Disability retirement benefits must be 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 workers' compensation benefits paid. The minimum monthly disability retirement benefit under this section is one hundred dollars.

* SECTION 6. AMENDMENT. Subsection 1 of section 54-52.1-03.2 of the North Dakota Century Code is amended and reenacted as follows:

1. The board shall establish a retiree health benefits fund account with the Bank of North Dakota for the purpose of prefunding hospital benefits coverage and medical benefits coverage under the uniform group insurance program for retired eligible employees or surviving spouses of retired eligible employees and their dependents as provided in this chapter. The state shall contribute monthly to the retiree health benefits fund an amount equal to one percent of the monthly salaries and wages of all participating members of the highway patrolmen's retirement system under chapter 39-03.1, and one percent of the monthly salaries of all supreme or district court judges who are participating members of the public employees retirement system under chapter 54-52. Each governmental unit that contributes to the public employees retirement system fund under section 54-52-06 shall contribute monthly to the retiree health benefits fund an amount equal to one percent of the monthly salaries or wages of all participating members of the public employees retirement system under chapter 54-52. The employer of a national guard security officer or firefighter shall contribute monthly to the retiree health benefits fund an amount equal to one percent of the monthly salaries or wages of all national guard security officers or firefighters participating in the public employees retirement system under chapter 54-52. The board, as trustee of the fund and in exclusive control of its administration, shall:
 - a. Provide for the investment and disbursement of moneys of the retiree health benefits fund and administrative expenditures in the same manner as moneys of the public employees retirement system are invested, disbursed, or expended under subsection 6 of section 54-52-04.
 - b. Adopt rules necessary for the proper administration of the retiree health benefits fund, including enrollment procedures.

SECTION 7. APPLICATION OF ACT. This Act applies to benefits payable after June 30, 1991.

Approved March 18, 1991
Filed March 19, 1991

* NOTE: Section 54-52.1-03.2 was also amended by section 1 of House Bill No. 1188, chapter 634.

CHAPTER 627

HOUSE BILL NO. 1186
 (Committee on State and Federal Government)
 (At the request of the Public Employees Retirement System)

JUDICIAL RETIREMENT

AN ACT to amend and reenact sections 54-52-02.6, 54-52-06.1, 54-52-17, subsection 1 of section 54-52.1-03.2, and 54-52.1-03.3 of the North Dakota Century Code, relating to retirement benefits for supreme and district court judges and refunds of contributions under the public employees retirement system and the inclusion of members of the judges retirement program as recipients of retiree health benefits under the uniform group insurance program; to provide an expiration date; and to provide for application of this Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

54-52-02.6. Repurchase of past service upon reemployment. An individual who terminates participation in the plan may elect to receive a refund of ~~contributions~~ the member's account balance under subsection 7 of section 54-52-17 and thus forfeit all rights to plan benefits. An individual may, 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. Section 54-52-06.1 of the North Dakota Century Code is amended and reenacted as follows:

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

* SECTION 3. AMENDMENT. Section 54-52-17 of the 1990 Special Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-52-17. Formulation of plan. Participating members shall receive benefits according to this section and according to rules adopted by the board, not inconsistent with this chapter. No person is entitled to receive

* NOTE: Section 54-52-17 was also amended by section 1 of House Bill No. 1185, chapter 631, and by section 5 of Senate Bill No. 2093, chapter 626.

a prior service benefit if the person was not continuously employed by a governmental unit in North Dakota for a period of not less than two years immediately prior to eligibility for retirement.

1. Participating members shall receive credit for full-time employment or its equivalent from the date they attain eligibility until their normal retirement date, postponed retirement date, or early retirement date, as defined in this section. Part-time employment will be recognized as full-time employment on a prorated basis as the board may prescribe.
2. Retirement benefits must 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 thirty-six months employed during the last one hundred twenty months of employment. Months not employed must be are excluded in arriving at the thirty-six months to be used for the purpose of computing an average. If the participating member has worked for less than thirty-six months at the normal retirement date, the final average salary must be is the average salary for the total months of employment.
3. Retirement dates must be are defined as follows:
 - a. Normal retirement date is:
 - (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
 - (2) When the member has a combined total of years of service credit and years of age equal to ninety and has not received a retirement benefit under this chapter.
 - b. Postponed retirement date is the first day of the month next following the month in which the member, on or after July 1, 1977, actually severs or has severed the member's employment after attaining the age of sixty-five years.
 - 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 five years of eligible employment.
 - 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 of the board, and has completed at least one hundred eighty days of eligible employment. A member is eligible to receive disability retirement benefits 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.

4. Retirement The board shall calculate retirement benefits must be calculated by the board as follows:
- a. Normal retirement benefits for all retirees, except supreme and district court judges, reaching normal retirement date must be equal an annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which must be determined as follows:
 - (1) Service benefit equals one and sixty-five hundredths percent of final average salary multiplied by the number of years of service employment.
 - (2) Prior service benefit equals one and 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, 1989, are entitled to benefits calculated at one and 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, 1989.
 - b. Normal retirement benefits for all supreme and district court judges under the public employees retirement system reaching normal retirement date must be equal an annual amount, payable monthly, comprised of a benefit as defined in this chapter, which must be determined as follows:
 - (1) Benefits must be calculated from the time of appointment or election to the bench and must equal three and one-half percent of final average salary multiplied by the first ten years of judicial service, two and one-fourth percent of final average salary multiplied by the second ten years of judicial service, and one and one-fourth percent of final average salary multiplied by the number of years of judicial service exceeding twenty years.
 - (2) Service benefits must include, in addition, an amount equal to the percent specified in subdivision a of final average salary multiplied by the number of years of nonjudicial employee service and employment.
 - c. Postponed retirement benefits must be are calculated as for normal retirement benefits for those members who retired on or after July 1, 1977.
 - d. Early retirement benefits must be are calculated as for normal retirement benefits accrued to the date of termination of employment, but 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 five years of eligible employment.
 - e. Disability retirement benefits must be 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 workers' compensation benefits paid. The minimum monthly disability retirement benefit under this section is one hundred dollars.

5. Upon termination of employment after completing 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 five years of eligible employment, the board shall pay the member's account balance to any beneficiary, other than the member's surviving spouse, designated by the member with the written consent of the member's spouse, if any. If the member has not designated any beneficiary other than the member's surviving spouse 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.
7. If a member not coming under the provisions of subsection 6 terminates employment because of death, permanent and total disability, or any voluntary or involuntary reason prior to retirement, the member or the member's designated beneficiary is entitled to the member's account balance at termination. The board shall automatically refund a member's account balance if the member has completed less than five years of eligible employment. A member may waive the refund if the member submits a written statement to the board, within thirty days after termination, requesting that the member's account balance remain in the fund.
8. If a member who is receiving retirement benefits or the member's surviving spouse who is receiving retirement benefits dies before the total amount of benefits paid to either or both equals the amount of the member's account balance at retirement, the difference must be paid to such spouse, the member's surviving beneficiary, if any, or the member's estate.
9. The board shall promulgate regulations providing for the receipt of retirement benefits in the following optional forms:
 - a. Joint and survivor, with fifty percent or one hundred percent options.
 - b. Level social security option, which shall be available only to early retirees.

c. Life with five-year or ten-year certain options.

Unless a member requests that the member receive benefits according to one of these options at the time of applying for retirement, all retirement benefits must be in the form of a lifetime monthly pension.

SECTION 4. AMENDMENT. Subsection 1 of section 54-52.1-03.2 of the North Dakota Century Code is amended and reenacted as follows:

1. The board shall establish a retiree health benefits fund account with the Bank of North Dakota for the purpose of prefunding hospital benefits coverage and medical benefits coverage under the uniform group insurance program for retired eligible employees or surviving spouses of retired eligible employees and their dependents as provided in this chapter. The state shall contribute monthly to the retiree health benefits fund an amount equal to one percent of the monthly salaries and wages of all participating members of the highway patrolmen's retirement system under chapter 39-03.1, and ~~one~~ three percent of the monthly salaries of all supreme or district court judges who are participating members of the public employees retirement system under chapter 54-52. Each governmental unit that contributes to the public employees retirement system fund under section 54-52-06 shall contribute monthly to the retiree health benefits fund an amount equal to one percent of the monthly salaries or wages of all participating members of the public employees retirement system under chapter 54-52. The board, as trustee of the fund and in exclusive control of its administration, shall:
 - a. Provide for the investment and disbursement of moneys of the retiree health benefits fund and administrative expenditures in the same manner as moneys of the public employees retirement system are invested, disbursed, or expended under subsection 6 of section 54-52-04.
 - b. Adopt rules necessary for the proper administration of the retiree health benefits fund, including enrollment procedures.

* SECTION 5. AMENDMENT. Section 54-52.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-03.3. Eligibility for retiree health benefits - Fixed contribution and reduction factors.

1. The following persons are entitled to receive credit for hospital and medical benefits coverage under subsection 2:
 - a. A member of the highway patrolmen's retirement system ~~or the public employees retirement system~~ receiving retirement benefits, ~~or the surviving spouse of a member of the highway patrolmen's retirement system who was eligible to receive or was receiving retirement benefits, under section 39-03.1-11 or 54-52-17.~~
 - b. ~~The surviving spouse of a~~ A member of the highway patrolmen's retirement system ~~or the public employees retirement system~~

* NOTE: Section 54-52.1-03.3 was also amended by section 2 of House Bill No. 1188, chapter 634, and by section 2 of Senate Bill No. 2507, chapter 633.

receiving retirement benefits, or the surviving spouse of a member of the public employees retirement system who was eligible to receive, or was receiving, retirement benefits, under section ~~39-03-111~~ or 54-52-17.

- c. A retired judge receiving retirement benefits under the retirement program established under chapter 27-17, or the surviving spouse of a retired judge who was eligible to receive or was receiving retirement benefits, under section 27-17-01.
2. The board shall calculate the allowable monthly credit toward hospital and medical benefits coverage for a person eligible under subsection 1 in an amount equal to three dollars multiplied by the member's or deceased member's number of years of credited service under the highway patrolmen's retirement system ~~or~~, the public employees retirement system, or the judges retirement program established under chapter 27-17. For a member of the public employees retirement system receiving an early retirement benefit or the surviving spouse of that member, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of sixty-five and an additional reduction factor of six percent shall apply for each year the member terminates employment prior to attaining the age of sixty-four. For a member of the highway patrolmen's retirement system receiving an early retirement benefit or the surviving spouse of that member, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of fifty-five and an additional reduction factor of six percent shall apply for each year the member terminates employment prior to attaining the age of fifty-four.
3. The board shall apply the credit allowable under subsection 2 to the payment of monthly premiums required of each person eligible under subsection 1 for hospital benefits coverage and medical benefits coverage under the uniform group insurance program. However, if the allowable credit exceeds the monthly premium in effect for selected coverage, that amount of the credit which exceeds the premium is forfeited and may not be used for any other purpose.

SECTION 6. EXPIRATION DATE. Sections 2 and 4 of this Act are effective through June 30, 1996, and after that date are ineffective.

SECTION 7. APPLICATION OF ACT. Section 3 of this Act relating to benefits for supreme and district court judges applies to benefits payable after June 30, 1991.

Approved April 2, 1991
Filed April 4, 1991

CHAPTER 628

SENATE BILL NO. 2078
(Legislative Council)

(Interim Committee on Public Employees Retirement Programs)

STATE INVESTMENT BOARD

AN ACT to amend and reenact sections 1 and 15 of chapter 667 of the 1989 Session Laws of North Dakota, section 21-10-01 of the North Dakota Century Code as amended by section 4 of chapter 667 of the 1989 Session Laws of North Dakota, section 21-10-02.1 of the North Dakota Century Code as amended by section 6 of chapter 667 of the 1989 Session Laws of North Dakota, and section 54-52-04 of the North Dakota Century Code as amended by section 11 of chapter 667 of the 1989 Session Laws of North Dakota, relating to the establishment of the North Dakota state retirement and investment office; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. The new chapter to title 54 of the North Dakota Century Code as created by section 1 of chapter 667 of the 1989 Session Laws of North Dakota is amended and reenacted as follows:

North Dakota state retirement and investment office. A state agency The state retirement and investment office 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 investment board shall govern 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 state investment 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 board of trustees of 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 is 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 state investment 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 21-10-01 of the North Dakota Century Code as amended by section 4 of chapter 667 of the 1989 Session Laws of North Dakota is amended and reenacted as follows:

21-10-01. State investment board - Membership - Term - Compensation - Advisory council.

1. The North Dakota state investment board consists of the governor, the state treasurer, the commissioner of university and school lands, the ~~chairperson~~ director of the workers compensation bureau, the commissioner of insurance, 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 of the public employees retirement system board as selected by that board. The members of the state investment board, except elected and appointed officials, are entitled to receive the same compensation per day as provided in section 54-35-10 for members of the legislative council and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09 for attending meetings of the state investment board.
2. The state investment board may establish an advisory council ~~comprised~~ composed of individuals who are experienced and knowledgeable in the field of investments. The state investment board shall determine the responsibilities of the advisory council. Members of the advisory council are entitled to receive the same compensation as provided 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 and 54-06-09.

SECTION 3. AMENDMENT. Section 21-10-02.1 of the North Dakota Century Code as amended by section 6 of chapter 667 of the 1989 Session Laws of North Dakota is amended and reenacted as follows:

21-10-02.1. Board - Policies - ~~Investment~~ on investment goals and objectives and asset allocation.

1. The board governing body of each fund enumerated in section 21-10-06 shall establish policies on investment goals and objectives and asset allocation for the funds enumerated in section ~~21-10-06~~ each respective fund. The policies must provide for:
 - ~~1-~~ a. The definition and assignment of duties and responsibilities to advisory services and persons employed by the board.
 - ~~2-~~ b. Acceptable rates of return, liquidity, and levels of risk.
 - ~~3-~~ c. Long-range asset allocation goals.
 - ~~4-~~ d. Guidelines for the selection and redemption of investments.
 - ~~5-~~ e. Investment diversification, investment quality, qualification of advisory services, and amounts to be invested by advisory services.

- 6- f. The type of reports and procedures to be used in evaluating performance.
2. 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 The 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, to be effective, must be approved by the governing body of that fund and the state investment board by January first of each year. If the asset allocation is not approved, the previous asset allocation remains effective. The governing body of each fund shall use the staff and consultants of the retirement and investment office in developing asset allocations and investment policies.

SECTION 4. AMENDMENT. Section 54-52-04 of the North Dakota Century Code as amended by section 11 of chapter 667 of the 1989 Session Laws of North Dakota is amended and reenacted 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 funds necessary for paying prior service and service benefits, consultant fees, and making withdrawal payments and refunds are hereby appropriated from the retirement fund for those purposes. The amount necessary to pay the consulting fees and health insurance benefits 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 fund and distribute a copy to each participant.

SECTION 5. AMENDMENT. Section 15 of chapter 667 of the 1989 Session Laws of North Dakota is amended and reenacted as follows:

SECTION 15. EXPIRATION DATE. This Act is effective through June 30, ~~1991~~ 1993, and after that date is ineffective.

SECTION 6. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 5, 1991
Filed April 8, 1991

CHAPTER 629

SENATE BILL NO. 2094
(Committee on State and Federal Government)
(At the request of the Board of Higher Education)

DEVELOPMENT FOUNDATION EMPLOYEE DISTRIBUTION

AN ACT to create and enact a new subsection to section 54-52-04 of the North Dakota Century Code, relating to the powers and duties of the public employees retirement board to purchase annuities for employees of development foundations associated with public institutions of higher education who become ineligible to continue in the public employees retirement system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 54-52-04 of the North Dakota Century Code is created and enacted as follows:

The board may distribute the employer contribution and applicable interest for any employee of any development foundation associated with a public institution of higher education in this state who may previously have been included in the public employees retirement system while employed by such foundation. Such employee is entitled to have that employee's contribution and the contribution of the development foundation, with interest.

Approved March 14, 1991
Filed March 15, 1991

CHAPTER 630

HOUSE BILL NO. 1190
(Committee on State and Federal Government)
(At the request of the Public Employees Retirement System)

PERS REVISIONS

AN ACT to create and enact two new sections to chapter 54-52 and a new subsection to section 54-52.1-03.2 of the North Dakota Century Code, relating to retirement records and federal benefit limitations under the public employees retirement system plan and the retiree health benefits fund; and to amend and reenact sections 39-03.1-10, 39-03.1-10.1, 54-52-02.9, 54-52-06, 54-52-17.4, 54-52-23, and 54-52.1-01 of the North Dakota Century Code, relating to military service credit, participation by temporary employees, purchase of additional service credit, plan modifications under the public employees retirement system, and definitions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-03.1-10 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

39-03.1-10. Contributions by the state. The state shall contribute to the fund a sum equal to sixteen and seventy-hundredths percent of the monthly salary or wage of a participating member. If the member's contribution is paid by the state under subsection 2 of section 39-03.1-09, the state shall contribute, in addition, an amount equal to the required member's contribution. The state shall pay the associated employer contribution for those members who elect to exercise their rights under subsection 3 of section 39-03.1-10.1.

SECTION 2. AMENDMENT. Section 39-03.1-10.1 of the North Dakota Century Code is amended and reenacted as follows:

39-03.1-10.1. Refund and repurchase of contributions. A Except as provided in subsection 3, a contributor whose employment has been terminated for at least thirty days is entitled to a refund of or to repurchase contributions as follows:

1. a. If the contributor has less than ten years of service at termination of employment, the refund is payable on application of the contributor, or automatically in January of the following calendar year.
- b. If the contributor has at least ten years of service at the date of termination, the contributor may apply for a refund of accumulated deductions instead of retirement benefits. By receiving the refund of accumulated deductions under this subdivision, the contributor forfeits all months of service to

the date of refund and cannot use those months for any future benefit calculations.

2. A contributor who was paid a refund under subdivision a of subsection 1 may, upon reemployment, elect to repurchase months of service lost to the date of refund. The election to repurchase must be made within ninety days of reemployment and repayment must begin within twelve months of reemployment. The repayment may be made in a lump sum or by periodic payments that each year include at least ten percent of the repayment principal amount. The board shall establish an interest rate to be charged on periodic payments. If the contributor's death occurs before completion of the repurchase, the contributor's spouse may, within ninety days of the contributor's death, complete the repurchase. Benefits payable to the surviving spouse cannot be paid until the repurchase has been completed.
3. A member may elect to purchase qualified military service credit pursuant to the Veterans' Reemployment Rights Act [Pub. L. 93-508; 88 Stat. 1594; 38 U.S.C. 2021 et seq.] at any time prior to retirement by submitting a valid application and paying the member portion pursuant to rules adopted by the board. It is the responsibility of the applicant to supply any documentation required by the board.

SECTION 3. AMENDMENT. Section 54-52-02.9 of the North Dakota Century Code is amended and reenacted as follows:

54-52-02.9. Participation by temporary employees. A temporary employee may elect, within one hundred eighty days of beginning employment, 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 eight and twelve-hundredths percent times the temporary employee's present monthly salary. The temporary employee shall also pay monthly to the retiree health benefit fund established under section 54-52.1-03.2 one percent times the temporary employee's present monthly salary. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. 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. A temporary employee may not purchase additional credit under section 54-52-17.4.

* SECTION 4. AMENDMENT. Section 54-52-06 of the North Dakota Century Code is amended and reenacted as follows:

54-52-06. Employer's contribution to retirement plan. Each governmental unit shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. For those members who elect to exercise their rights under subsection 3 of section 54-52-17.4, the employing governmental unit, or in the case of a member not presently under covered employment the most recent employing governmental unit, shall pay the associated employer contribution. If the employee's contribution is paid by the governmental unit under subsection 3 of section 54-52-05, the employer unit shall contribute, in addition, an amount equal to the required employee's contribution. Each governmental unit

* NOTE: Section 54-52-06 was also amended by section 13 of Senate Bill No. 2073, chapter 600.

shall pay the contribution monthly such contribution, or in the case of an election made pursuant to subsection 3 of section 54-52-17.4 a lump sum, into the retirement fund from its funds appropriated for payroll and salary or any other funds available for such these purposes. Any governmental unit failing to pay such the contributions monthly, or in the case of an election made pursuant to subsection 3 of section 54-52-17.4 a lump sum, is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction thereof after the payment became due. The board shall report to each session of the legislative assembly, or such a committee as may be designated by the legislative council to hear such the report in the interim between legislative sessions, the contributions necessary, as determined by the actuarial study, to maintain the fund's actuarial soundness.

* SECTION 5. AMENDMENT. Section 54-52-17.4 of the North Dakota Century Code is amended and reenacted as follows:

54-52-17.4. 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~~ 1991, 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, except as provided in subsection 3, 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~~ eight and

* NOTE: Section 54-52-17.4 was also amended by section 1 of Senate Bill No. 2507, chapter 633.

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. The participating member shall also pay to the retiree health benefits fund established under section 54-52.1-03.2 one percent times the participating member's present monthly salary times the number of months of credit being purchased. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2.

3. A participating member, or a member not presently under covered employment, may request credit for qualified military service pursuant to the Veterans' Reemployment Rights Act [Pub. L. 93-508; 88 Stat. 1594; 38 U.S.C. 2021 et seq.]. The member shall submit a qualified application with proof of eligible military service to the board in order to receive credit for military service. For credit on and after July 1, 1966, the member must pay four percent times the member's most recent monthly salary, times the number of months of credit being purchased, plus interest at a rate determined by the board. In addition, the governmental unit, or in the case of a member not under covered employment the last employing governmental unit, shall pay to the retiree health benefits fund established under section 54-52.1-03 one percent times the member's present monthly salary times the member's months of credit being purchased. For credit before July 1, 1966, no contribution is required.

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

Employment records. The years of service and prior service credit for each member as indicated in the records of the public employees retirement system as of July 1, 1991, are deemed correct and recognized as creditable years of service and prior service credit for purposes of calculating retirement benefits under this chapter and may not be reduced. However, the records may be corrected to reflect additional months of creditable service and prior service credit upon proper verification.

SECTION 7. A new section to chapter 54-52 of the North Dakota Century Code is created and enacted as follows:

Benefit limitations. Benefits with respect to a member of the public employees retirement system on or after January 1, 1990, may not exceed the maximum benefits specified under section 415 of the Internal Revenue Code [26 U.S.C. 415] for governmental plans. This section constitutes an election under section 415(b)(10)(C) of the Internal Revenue Code [26 U.S.C. 415(b)(10)(C)] with respect to a member who first became a member before January 1, 1990.

SECTION 8. AMENDMENT. Section 54-52-23 of the North Dakota Century Code is amended and reenacted as follows:

54-52-23. Savings clause - Internal revenue service Plan modifications. If the internal revenue service does not approve of certain sections or phraseology of certain sections board determines that any section of this chapter as being in compliance with the does not comply with

applicable federal statutes or rules governing the internal revenue service, the board in the adoption of the plan shall adopt such appropriate terminology with respect to such sections that section as will comply therewith with those federal statutes or rules, subject to the approval of the committee on public employees retirement programs. Any plan modifications made by the board pursuant to this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

SECTION 9. AMENDMENT. Section 54-52.1-01 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-01. Definitions. As used in this chapter, unless the context otherwise requires:

1. "Board" means the public employees retirement board.
2. "Carrier" means:
 - a. For the hospital benefits coverage, an insurance company authorized to do business in the state, or a nonprofit hospital service association, or a prepaid group practice hospital care plan authorized to do business in the state, or the state if a self-insurance plan is used for providing hospital benefits coverage.
 - b. For the medical benefits coverage, an insurance company authorized to do business in the state, or a nonprofit medical service association, or a prepaid group practice medical care plan authorized to do business in the state, or the state if a self-insurance plan is used for providing medical benefits coverage.
 - c. For the life insurance benefits coverage, an insurance company authorized to do business in the state.
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.
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 workers' compensation fund. As used in this subsection, "permanent employee" means one whose services are not limited in duration, who is filling an approved and regularly funded position in a governmental unit, and who is employed at least seventeen and one-half hours per week and at least five months each year.

5. "Health maintenance organization" means an organization certified to establish and operate a health maintenance organization in compliance with chapter 26.1-18.
6. "Hospital benefits coverage" means a plan which either provides coverage for, or pays, or reimburses expenses for hospital services incurred in accordance with the uniform contract.
7. "Life insurance benefits coverage" means a plan which provides both term life insurance and accidental death and dismemberment insurance in amounts determined by the board, with a minimum of one thousand dollars provided for the term life insurance portion of the coverage.
8. "Medical benefits coverage" means a plan which either provides coverage for, or pays, or reimburses expenses for medical services in accordance with the uniform contract.
9. "Member contribution" means the payment by the member into the retiree health benefits fund pursuant to sections 54-52-02.9 and 54-52-17.4.
10. "Member's account balance" means the member's contributions plus interest at the rate set by the board.
11. "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 10. A new subsection to section 54-52.1-03.2 of the North Dakota Century Code is created and enacted as follows:

If a member terminates employment because of death, permanent and total disability, or any voluntary or involuntary reason prior to retirement, the member or the member's designated beneficiary is entitled to the member's account balance at termination. If a member's account balance is withdrawn, the member relinquishes all rights to benefits under the retiree health benefits fund.

Approved April 2, 1991
Filed April 4, 1991

CHAPTER 631

HOUSE BILL NO. 1185
(Committee on State and Federal Government)
(At the request of the Public Employees Retirement System)

PERS BENEFITS CALCULATION

AN ACT to amend and reenact section 54-52-17 of the North Dakota Century Code, relating to eligibility for and computation of disability retirement benefits, and computation of normal retirement 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. Section 54-52-17 of the 1990 Special Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-52-17. Formulation of plan. Participating members shall receive benefits according to this section and according to rules adopted by the board, not inconsistent with this chapter. No person is entitled to receive a prior service benefit if the person was not continuously employed by a governmental unit in North Dakota for a period of not less than two years immediately prior to eligibility for retirement.

1. Participating members shall receive credit for full-time employment or its equivalent from the date they attain eligibility until their normal retirement date, postponed retirement date, or early retirement date, as defined in this section. Part-time employment will be recognized as full-time employment on a prorated basis as the board may prescribe.
2. Retirement benefits ~~must 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 thirty-six months employed during the last one hundred twenty months of employment. Months not employed ~~must be~~ are excluded in arriving at the thirty-six months to be used for the purpose of computing an average. If the participating member has worked for less than thirty-six months at the normal retirement date, the final average salary ~~must be~~ is the average salary for the total months of employment.
3. Retirement dates ~~must be~~ are defined as follows:
 - a. Normal retirement date is:
 - (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or

* NOTE: Section 54-52-17 was also amended by section 3 of House Bill No. 1186, chapter 627, and by section 5 of Senate Bill No. 2093, chapter 626.

- (2) When the member has a combined total of years of service credit and years of age equal to ninety and has not received a retirement benefit under this chapter.
- b. Postponed retirement date is the first day of the month next following the month in which the member, on or after July 1, 1977, actually severs or has severed the member's employment after attaining the age of sixty-five years.
- 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 five years of eligible employment.
- 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 of the board, and has completed at least one hundred eighty days of eligible employment. A member is eligible to receive disability retirement benefits only if the member:
- (1) Became disabled during the period of eligible employment and;
 - (2) ~~Is determined eligible for benefits under the Social Security Act as amended; and~~
- ↔ Applies for disability retirement benefits within twelve months of the date the member terminates employment.
4. **Retirement** The board shall calculate retirement benefits must be calculated by the board as follows:
- a. Normal retirement benefits for all retirees, except supreme and district court judges, reaching normal retirement date must be equal an annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which must be is determined as follows:
- (1) Service benefit equals one and ~~sixty five~~ sixty-nine hundredths percent of final average salary multiplied by the number of years of service employment.
 - (2) Prior service benefit equals one and ~~sixty five~~ sixty-nine hundredths percent of final average salary multiplied by the number of years of prior service employment.
 - (3) All participants who retired before July 1, ~~1989~~ 1991, are entitled to benefits calculated at one and ~~sixty five~~ sixty-nine hundredths percent of final average salary, multiplied by the number of years of service employment, with the increased benefits payable beginning July 1, ~~1989~~ 1991.
- b. Normal retirement benefits for all supreme and district court judges under the public employees retirement system reaching normal retirement date must be equal an annual amount, payable

monthly, comprised of a benefit as defined in this chapter, which must be determined as follows:

- (1) Benefits must be calculated from the time of appointment or election to the bench and must equal three percent of final average salary multiplied by the first ten years of judicial service, two percent of final average salary multiplied by the second ten years of judicial service, and one percent of final average salary multiplied by the number of years of judicial service exceeding twenty years.
 - (2) Service benefits must include, in addition, an amount equal to the percent specified in subdivision a of final average salary multiplied by the number of years of nonjudicial employee service and employment.
- c. Postponed retirement benefits must be are calculated as for normal retirement benefits for those members who retired on or after July 1, 1977.
 - d. Early retirement benefits must be are calculated as for normal retirement benefits accrued to the date of termination of employment, but 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 five years of eligible employment.
 - e. Disability retirement benefits must be seventy are twenty-five 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 workers' compensation benefits paid.~~ The minimum monthly disability retirement benefit under this section is one hundred dollars.
5. Upon termination of employment after completing 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 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.
7. If a member not coming under the provisions of subsection 6 terminates employment because of death, permanent and total disability, or any voluntary or involuntary reason prior to retirement, the member or the member's designated beneficiary is entitled to the member's account balance at termination.
8. If a member who is receiving retirement benefits or the member's surviving spouse who is receiving retirement benefits dies before the total amount of benefits paid to either or both equals the amount of the member's account balance at retirement, the difference must be paid to such spouse, the member's surviving beneficiary, if any, or the member's estate.
9. The board shall promulgate regulations providing for the receipt of retirement benefits in the following optional forms:
 - a. Joint and survivor, with fifty percent or one hundred percent options.
 - b. Level social security option, which shall be available only to early retirees.
 - c. Life with five-year or ten-year certain options.

Unless a member requests that the member receive benefits according to one of these options at the time of applying for retirement, all retirement benefits must be in the form of a lifetime monthly pension.

SECTION 2. APPLICATION OF ACT. This Act applies to benefits payable after June 30, 1991.

Approved March 27, 1991
Filed March 28, 1991

CHAPTER 632

HOUSE BILL NO. 1392
(Representatives Martinson, Oban, Rydell)
(Senators Stenehjem, Satrom)

PERS RETIREMENT DATE AND BENEFITS MULTIPLIER

AN ACT to amend and reenact subdivision a of subsection 3 and subdivision a of subsection 4 of section 54-52-17 of the North Dakota Century Code, relating to the normal retirement date and computation of benefits; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision a of subsection 3 of section 54-52-17 of the 1990 Special Supplement to the North Dakota Century Code is amended and reenacted as follows:

a. Normal retirement date is:

- (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
- (2) When the member has a combined total of years of service credit and years of age equal to ~~ninety~~ eighty-eight and has not received a retirement benefit under this chapter.

SECTION 2. AMENDMENT. Subdivision a of subsection 4 of section 54-52-17 of the 1990 Special Supplement to the North Dakota Century Code is amended and reenacted as follows:

a. Normal retirement benefits for all retirees, except supreme and district court judges, reaching normal retirement date ~~must be equal~~ an annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which ~~must be is~~ determined as follows:

- (1) Service benefit equals one and ~~sixty five hundredths~~ sixty five hundredths eight-tenths percent of final average salary multiplied by the number of years of service employment.
- (2) Prior service benefit equals one and ~~sixty five hundredths~~ sixty five hundredths eight-tenths percent of final average salary multiplied by the number of years of prior service employment.
- (3) All participants who retired before ~~July 1, 1989~~ July 1, 1992, are entitled to benefits calculated at one and ~~sixty five hundredths~~ sixty five hundredths eight-tenths percent of final average salary, multiplied by the number of years of service employment, with the increased benefits payable beginning ~~July 1, 1989~~ July 1, 1992.

SECTION 3. EFFECTIVE DATE. This Act is effective for benefit payments on and after January 1, 1992. However, this Act does not become effective unless the board determines before January 1, 1992, with the advice of its actuary, that this Act can be implemented on an actuarially sound basis.

Approved April 2, 1991
Filed April 4, 1991

CHAPTER 633

SENATE BILL NO. 2507
(Satrom)

RETIREE HEALTH BENEFITS AND CREDIT PURCHASE

AN ACT to amend and reenact section 54-52-17.4 and subsection 2 of section 54-52.1-03.3 of the North Dakota Century Code, relating to purchase of additional credit under the public employees retirement system and to calculation of the allowable monthly credit toward hospital and medical benefits coverage under the retiree health benefits fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 54-52-17.4 of the North Dakota Century Code is amended and reenacted as follows:

54-52-17.4. 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~~ 1991, 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

* NOTE: Section 54-52-17.4 was also amended by section 5 of House Bill No. 1190, chapter 630.

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.

* SECTION 2. AMENDMENT. Subsection 2 of section 54-52.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

2. The board shall calculate the allowable monthly credit toward hospital and medical benefits coverage for a person eligible under subsection 1 in an amount equal to ~~three~~ four dollars multiplied by the member's or deceased member's number of years of credited service under the highway patrolmen's retirement system or the public employees retirement system. For a member of the public employees retirement system receiving an early retirement benefit or the surviving spouse of that member, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of sixty-five and an additional reduction factor of six percent shall apply for each year the member terminates employment prior to attaining the age of sixty-four. For a member of the highway patrolmen's retirement system receiving an early retirement benefit or the surviving spouse of that member, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of fifty-five and an additional reduction factor of six percent shall apply for each year the member terminates employment prior to attaining the age of fifty-four.

Approved April 16, 1991

Filed April 18, 1991

- * NOTE: Section 54-52.1-03.3 was also amended by section 5 of House Bill No. 1186, chapter 627, and by section 2 of House Bill No. 1188, chapter 634.

CHAPTER 634

HOUSE BILL NO. 1188
(Committee on State and Federal Government)
(At the request of Job Service North Dakota)

UNIFORM GROUP INSURANCE COVERAGE

AN ACT to amend and reenact sections 54-52.1-03.2 and 54-52.1-03.3 of the North Dakota Century Code, relating to the inclusion of members of the retirement program established by job service North Dakota as recipients of retiree health benefits under the uniform group insurance program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 54-52.1-03.2 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-03.2. Retiree health benefits fund - Appropriation.

1. The board shall establish a retiree health benefits fund account with the Bank of North Dakota for the purpose of prefunding and providing hospital benefits coverage and medical benefits coverage under the uniform group insurance program for retired eligible employees or surviving spouses of retired eligible employees and their dependents as provided in this chapter. The state shall contribute monthly to the retiree health benefits fund an amount equal to one percent of the monthly salaries and wages of all participating members of the highway patrolmen's retirement system under chapter 39-03.1, and one percent of the monthly salaries of all supreme or district court judges who are participating members of the public employees retirement system under chapter 54-52. Each governmental unit that contributes to the public employees retirement system fund under section 54-52-06 shall contribute monthly to the retiree health benefits fund an amount equal to one percent of the monthly salaries or wages of all participating members of the public employees retirement system under chapter 54-52. Job service North Dakota shall reimburse monthly the retiree health benefits fund for credit received under section 54-52.1-03.3 by members of the retirement program established by job service North Dakota under section 52-11-01. The board, as trustee of the fund and in exclusive control of its administration, shall:

a. Provide for the investment and disbursement of moneys of the retiree health benefits fund and administrative expenditures in the same manner as moneys of the public employees retirement system are invested, disbursed, or expended under subsection 6 of section 54-52-04.

* NOTE: Section 54-52.1-03.2 was also amended by section 6 of Senate Bill No. 2093, chapter 626.

- b. Adopt rules necessary for the proper administration of the retiree health benefits fund, including enrollment procedures.
2. All moneys deposited in the fund established under subsection 1, not otherwise appropriated, are hereby appropriated to the board for the purpose of making investments for the fund and to make contributions toward hospital and medical benefits coverage for eligible retired employees or surviving spouses of eligible retired employees and their dependents under the uniform group insurance program.

* SECTION 2. AMENDMENT. Section 54-52.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-03.3. Eligibility for retiree health benefits - Fixed contribution and reduction factors.

1. The following persons are entitled to receive credit for hospital and medical benefits coverage under subsection 2:
 - a. A member of the highway patrolmen's retirement system ~~or the public employees retirement system~~ receiving retirement benefits, ~~or the surviving spouse of a member of the highway patrolmen's retirement system who was eligible to receive or was receiving retirement benefits,~~ under section 39-03.1-11 ~~or 54-52-17.~~
 - b. ~~The surviving spouse of a~~ A member of the highway patrolmen's retirement system ~~or the public employees retirement system~~ receiving retirement benefits, ~~or the surviving spouse of a member of the public employees retirement system who was eligible to receive, or was receiving, retirement benefits,~~ under section ~~39-03.1-11 or~~ 54-52-17.
 - c. A member of the retirement program established by job service North Dakota under section 52-11-01 receiving retirement benefits, or the surviving spouse of a member of that retirement program who was eligible to receive or was receiving retirement benefits, under the plan provisions of that retirement program.
2. The board shall calculate the allowable monthly credit toward hospital and medical benefits coverage for a person eligible under subsection 1 in an amount equal to three dollars multiplied by the member's or deceased member's number of years of credited service under the highway patrolmen's retirement system ~~or~~ the public employees retirement system, ~~or the retirement program established by job service North Dakota under section 52-11-01.~~ For a member of the public employees retirement system receiving an early retirement benefit or the surviving spouse of that member, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of sixty-five and an additional reduction factor of six percent shall apply for each year the member terminates employment prior to attaining the age of sixty-four. For a member of the highway patrolmen's retirement system receiving an early retirement benefit or the surviving spouse of that member, the allowable monthly

* NOTE: Section 54-52.1-03.3 was also amended by section 5 of House Bill No. 1186, chapter 627, and by section 2 of Senate Bill No. 2507, chapter 633.

credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of fifty-five and an additional reduction factor of six percent shall apply for each year the member terminates employment prior to attaining the age of fifty-four. For a member of the retirement program established by job service North Dakota under section 52-11-01 receiving an early retirement benefit or a discontinued service annuity under the plan provisions of that retirement program or the surviving spouse of that member, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of sixty-five and an additional reduction factor of six percent applies for each year the member terminates employment prior to attaining the age of sixty-four.

3. The board shall apply the credit allowable under subsection 2 to the payment of monthly premiums required of each person eligible under subsection 1 for hospital benefits coverage and medical benefits coverage under the uniform group insurance program. However, if the allowable credit exceeds the monthly premium in effect for selected coverage, that amount of the credit which exceeds the premium is forfeited and may not be used for any other purpose.

Approved March 27, 1991
Filed March 28, 1991

CHAPTER 635

SENATE BILL NO. 2200
 (Committee on State and Federal Government)
 (At the request of the Public Employees Retirement System)

PRETAX BENEFITS PROGRAM

AN ACT to create and enact two new sections to chapter 54-52.3 of the North Dakota Century Code, relating to confidentiality of information concerning a public employee's participation in the pretax benefits program and deposit of moneys collected under the pretax benefits program; to amend and reenact section 54-52.3-03 of the North Dakota Century Code, relating to the defrayal of expenses associated with the pretax benefits program; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-52.3-03 of the North Dakota Century Code is amended and reenacted as follows:

54-52.3-03. Employer savings used to defray expenses of administering program - Continuing 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, as a result of the diminution of the state's employer contribution for the Federal Insurance Contribution Act tax, 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 pretax benefits program established under this chapter, including expenses associated with the program's medical spending account. Any revenue collected by the board from participating political subdivisions must be used, and is hereby appropriated, to defray the expenses of administering the program under this chapter. The amount necessary to pay the consultants retained by the board, any insurance costs associated with the medical spending account, and medical reimbursements for the medical spending account if funds are insufficient to pay claims 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~~ legislative assembly. The director of the office of management and budget may decrease or suspend the transfer of the savings accruing to the agencies' salaries and wages line item to the payroll clearing account upon determination that the funds deposited under this section are sufficient to offset anticipated obligations. Notwithstanding other provisions in this section and section 54-52.3-03, the public employees retirement system board, or any successor state agency, may not establish, enroll, or administer any pretax benefits program for a political subdivision or any other public or private business or entity, except for any program established specifically for employees of the state. The board may continue administering any pretax benefits program

* NOTE: Section 24-02-37.1 was also amended by section 91 of Senate Bill No. 2050, chapter 231; by section 30 of Senate Bill No. 2058, chapter 95; and by section 4 of Senate Bill No. 2073, chapter 600.

*** NOTE: Subsection 1 of section 28-32-01 was also amended by section 33 of Senate Bill No. 2058, chapter 95, and by section 9 of Senate Bill No. 2245, chapter 592.

** NOTE: Section 24-03-21 was also amended by section 31 of Senate Bill No. 2058, chapter 95.

**** NOTE: Section 37-03-14 was also amended by section 1 of House Bill No. 1088, chapter 378.

established for a political subdivision before January 1, 1991, through the end of the plan year.

SECTION 2. A new section to chapter 54-52.3 of the North Dakota Century Code is created and enacted as follows:

Confidentiality of program records. Any records and information pertaining to a public employee's medical and dependent care reimbursement under the pretax benefits program are confidential and are not public records subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota. The records and information may be disclosed, under rules adopted by the board, only to:

1. A person to whom the employee has given written consent to have the information disclosed.
2. A person legally representing the employee, upon proper proof of representation.
3. A person authorized by a court order.

SECTION 3. A new section to chapter 54-52.3 of the North Dakota Century Code is created and enacted as follows:

Deposit of program moneys - Appropriation. All moneys collected pursuant to elections made by public employees under the pretax benefits program for the medical spending account and the dependent care account must be deposited in an account with the Bank of North Dakota. All moneys deposited in the account, not otherwise appropriated, are hereby appropriated for the purpose of making payments to employees participating in the program. The board shall transfer any surplus in the pretax benefits account at the end of the plan year to the payroll clearing account.

Approved April 2, 1991
Filed April 4, 1991

CHAPTER 636

SENATE BILL NO. 2512
 (Senators Yockim, Mushik, Kelly)
 (Representatives Stofferahn, B. Anderson)

CHILDREN'S SERVICES COMMITTEE MEMBERS

AN ACT to amend and reenact section 54-56-01 of the North Dakota Century Code, relating to the children's services coordinating committee membership.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 54-56-01 of the North Dakota Century Code is amended and reenacted as follows:

54-56-01. 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 department of corrections and rehabilitation, or a designee of the director of the department of corrections and rehabilitation, the director of the office of management and budget, or a designee of the director of the office of management and budget, the director of vocational education, the chairperson of the governor's committee on children and youth, ~~the executive director~~ a representative of the Indian affairs commission, and a designee of the chief justice, and a member at large to be appointed by the governor. The governor or the governor's designee shall act as chairperson.

Approved April 5, 1991
 Filed April 8, 1991

* NOTE: Section 54-56-01 was also amended by section 44 of Senate Bill No. 2245, chapter 592.

CHAPTER 637

SENATE BILL NO. 2234
(Maxson, Stenehjem)

OFFICE OF ADMINISTRATIVE HEARINGS

AN ACT to provide for the creation of an office of administrative hearings, the appointment of a director of administrative hearings and other administrative hearings officers, to require the adoption of uniform rules of administrative practice and procedure, and to establish an advisory council; to repeal subsection 2 of section 50-24.4-18 and subsection 18 of section 54-12-01 of the North Dakota Century Code, relating to appointment of administrative hearings officers by the attorney general and certain appeals by nursing homes; to provide an appropriation; and to provide for a transfer.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Office of administrative hearings - Agency defined - Administrative agency defined.

1. A state office of administrative hearings is created.
2. The office is under the direction of a director of administrative hearings who must be free of any association that would impair the director's ability to function officially in a fair and objective manner. The director must be an attorney-at-law in good standing, admitted to the bar in this state, and currently licensed by the state bar board. The director of administrative hearings must be appointed by the governor and confirmed by the senate and shall hold office for a term of six years, the term beginning July first of the year of appointment and ending June thirtieth of the sixth calendar year after appointment.
3. The director of administrative hearings may preside at administrative hearings and may employ or appoint additional administrative hearings officers to serve in the office as necessary to fulfill the duties of office as described in section 4 of this Act and to provide administrative hearings officers to preside at administrative hearings as requested by agencies. The director may delegate to an employee the exercise of a specific statutory power or duty as deemed advisable, subject to the director's control, including the powers and duties of a deputy director. All administrative hearings officers must be classified employees, except that the director of administrative hearings must be an unclassified employee who only may be removed, during a term of office, for cause. Each administrative hearings officer must have a demonstrated knowledge of administrative practices and procedures and must be free of any association that would impair the officer's ability to function officially in a fair and objective manner.

4. The director of administrative hearings may employ the necessary support staff required by the office. Support staff must be classified employees.
5. The director of administrative hearings shall develop categories of positions in the classified service under class titles for the appointment or employment of hearings officers and support staff in consultation with and approved by the director of the central personnel division, including the salary to be paid for each position or category of position.
6. In this Act, unless the context or subject matter otherwise requires, "agency" means each board, bureau, commission, department, or other administrative unit of the executive branch of state government whether headed by an appointed or elected official.
7. In this Act, unless the context or subject matter otherwise requires, "administrative agency" means that term as defined in section 28-32-01.

SECTION 2. Temporary administrative hearings officers. When regularly appointed administrative hearings officers are not available, the director of administrative hearings may contract on a temporary basis with qualified individuals to serve as administrative hearings officers for the office of administrative hearings.

SECTION 3. Hearings before administrative hearings officers.

1. Notwithstanding the authority granted in chapter 28-32 allowing agency heads or other persons to preside in an administrative proceeding, all hearings of administrative agencies under chapter 28-32, except hearings conducted by the public service commission, the industrial commission, the commissioner of insurance, the workers compensation bureau, the state engineer, the department of transportation, job service North Dakota, and the commissioner of labor, and except rulemaking hearings held in accordance with section 28-32-02, must be conducted by the office of administrative hearings in accordance with the administrative hearings provisions of chapter 28-32 and any rules adopted pursuant to chapter 28-32. But, appeals hearings pursuant to section 61-03-22 and drainage appeals from water resource boards to the state engineer pursuant to chapter 61-32 must be conducted by the office of administrative hearings. Additionally, hearings of the department of corrections and rehabilitation for the parole board in accordance with chapters 12-56.1 and 12-59, regarding parole violations; job discipline and dismissal appeals to the board of higher education; education of the handicapped act due process hearings of the superintendent of public instruction; and chapter 37-19.1 veterans' preferences hearings for any agency must be conducted by the office of administrative hearings in accordance with applicable laws.
2. The agency head shall make a written request to the director requesting the designation of a hearings officer for each administrative hearing to be held. An agency may request a hearings officer to be designated to preside over the entire administrative proceeding. If a statute so requires, an agency

shall, or unless a statute prohibits, an agency may, request that the hearings officer designated issue the final order in the matter. Informal disposition of an administrative proceeding may be made by an agency at any time before or after the designation of a hearings officer from the office of administrative hearings.

3. If a party to an administrative proceeding is in default, the agency may issue a default order and a written notice of default, including a statement of the grounds for default. If issued, the default notice and order must be served upon all the parties and the hearings officer, if one has been assigned. After service of the default notice and order, the agency may conduct further proceedings necessary to complete the administrative action with or without the participation of the party in default, and with or without a hearings officer from the office of administrative hearings presiding. The agency shall determine all the issues involved.
4. When assigning administrative hearings officers to conduct administrative hearings or to preside in an administrative proceeding, the director shall attempt to assign a hearings officer having expertise in the subject matter to be dealt with.
5. The director of administrative hearings may assign an administrative hearings officer to preside in an administrative proceeding, upon request, to any agency exempted from the provisions of this section, to any agency, or part of any agency, that is not an administrative agency subject to the provisions of chapter 28-32, to any unit of local government in this state, or to any agency to conduct a rulemaking hearing.

SECTION 4. Duties of administrative hearings officers. It is the duty of all administrative hearings officers to:

1. Advise an agency that has requested a hearings officer, and other affected interests and parties, about the location and time for an administrative hearing, or related proceeding, to be held, in order to allow for participation by all affected interests and parties. The hearings officer shall give proper notice as required by law.
2. Conduct only hearings and related proceedings for which proper notice has been given.
3. Assure that all hearings and related proceedings are conducted in a fair and impartial manner.
4. When appropriate, make findings of fact, conclusions of law, and recommendations, taking notice whether the agency has documented its statutory authority to take the proposed action, fulfilled all relevant substantive and procedural requirements of law or rule, and, in rulemaking proceedings, conformed to the provisions of chapter 28-32.
5. Perform any and all other functions required by law, assigned by the director of administrative hearings, or delegated to the hearings officers by the agency.

6. When an agency requests a hearings officer to preside only as a procedural hearings officer, the hearings officer may only conduct the hearing and perform such other functions of the proceeding as requested. If the hearings officer is presiding only as a procedural hearings officer, the agency head must be present at the hearing and the agency head shall issue findings of fact and conclusions of law, as well as any order resulting from the hearing. The procedural hearings officer may issue orders in regard to the conduct of the hearing, pursuant to statute or rule, and to otherwise effect an orderly and prompt disposition of the proceedings.

SECTION 5. Uniform rules of administrative practice or procedure - Effective date - Hearings officer rules.

1. The director of administrative hearings shall adopt, in accordance with chapter 28-32, rules of administrative hearings practice or procedure which implement chapter 28-32 and which aid in the course and conduct of all administrative hearings and related proceedings conducted by administrative agencies under chapter 28-32. The uniform rules must be effective January 1, 1992. The uniform rules must be used by all administrative agencies subject to chapter 28-32 which do not have their own rules of administrative hearings practice or procedure governing the course and conduct of hearings. If an administrative agency's rules are silent on any aspect of the agency's administrative hearings practice or procedure, the applicable uniform rule governs.
2. The director of administrative hearings may adopt rules to further establish qualifications for hearings officers; to establish procedures for requesting and designating hearings officers; and to facilitate the performance of duties and responsibilities conferred by sections 1 through 8 of this Act. Any rules adopted by the director of administrative hearings pursuant to this subsection must be adopted in accordance with chapter 28-32.

SECTION 6. Transfer and transition provisions.

1. There is transferred from all agencies required to use the office of administrative hearings to conduct administrative hearings, to the office of administrative hearings, on the effective date of this Act, the following:
 - a. All functions performed on the day before the effective date of this Act by hearings officers of the agency, pursuant to the administrative hearings provisions of chapter 28-32, and any rules adopted pursuant to it, or any other applicable law, which must now be performed by hearings officers of the office of administrative hearings on and after the effective date of this Act.
 - b. The full-time equivalents of any agency hearings officer positions which are dedicated to the appointment or employment full time, or half time or more, of administrative hearings officers. Any individual appointed or employed pursuant to such full-time equivalent whose position is transferred to the office of administrative hearings may elect to accept the

transfer, with no reduction in pay, or may elect to remain employed by the agency in another position, if offered by the agency.

- c. The full-time equivalents of any agency positions that are dedicated to the appointment or employment full time, or half time or more, of support staff for administrative hearings officers or their work. Any individual who is appointed or employed pursuant to such full-time equivalent whose position is transferred to the office of administrative hearings may elect to accept the transfer, with no reduction in pay or classification, or may elect to remain employed by the agency in another position, if offered by the agency.
 - d. All property, equipment, materials, and copies of records held, used, arising from, available, or to be made available, in connection with the functions, individuals, and authority transferred by this section, as needed and required by the office of administrative hearings.
2. If the director of administrative hearings and the agency transferring any position or any property, equipment, materials, or copies of records to the office of administrative hearings cannot agree about who or what is to be transferred, the director of the office of management and budget may make determinations with regard to transfers to carry out sections 1 through 8 of this Act, to accommodate the needs and requirements of the office of administrative hearings, and to accommodate a smooth transition of positions, persons, property, equipment, materials, and records.
 3. The director of the office of management and budget, if necessary, may require agencies to allow the use of agency facilities on a temporary basis to allow for an orderly consolidation of the office of administrative hearings, personnel, property, equipment, materials, and copies of records in one location as space becomes available.
 4. Administrative proceedings in progress at the time of the effective date of this Act may be transferred to the office of administrative hearings to be conducted in accordance with applicable law only if the same person or persons currently involved in conducting the proceedings for the agency is available to conduct the proceedings for the office of administrative hearings. Otherwise, an administrative proceeding in progress at the time of the effective date of this Act must be handled by the agency or person previously involved, in accordance with applicable law.

SECTION 7. Compensation for provision of hearings officers - Special fund established - Continuing appropriation.

1. The office of administrative hearings may require payment for services rendered by any administrative hearings officer provided by it to any agency, or any unit of local government, in the conduct of an administrative hearing and related proceedings and those entities must make the required payment to the office. Payment may include payment for support staff necessary to render hearings officer services. General fund moneys may not be used for

payment by state agencies pursuant to this subsection. Moneys received by the office of administrative hearings in payment for providing an administrative hearings officer to conduct an administrative hearing and related proceedings must be deposited into the operating fund of the office of administrative hearings.

2. The office of administrative hearings may require payment for mileage, meals, and lodging in connection with services rendered by an administrative hearings officer provided to any agency, or any unit of local government, in the conduct of an administrative hearing and related proceedings, and those entities must make the required payment to the office. Payment for meals and lodging must be in the amounts allowable under section 44-08-04. Payment for mileage when using state vehicles must be in amounts set for user charges under section 24-02-03.5. All other payments must be in amounts allowed for other state officials and employees. Either general fund or special fund moneys, or other income, may be used for the payment of mileage, meals, and lodging under this subsection.
3. A special fund is established in the state treasury and designated as the administrative hearings fund. The director of administrative hearings shall deposit in the fund all moneys received by the office of administrative hearings in payment for providing temporary administrative hearings officers to conduct administrative hearings and related proceedings under this Act, as well as all moneys received by the office in payment for mileage, meals, and lodging in connection with providing any administrative hearings officer to conduct an administrative hearing and related proceedings. The moneys in the fund are a standing and continuing appropriation and are appropriated, as necessary, for the following purposes:
 - a. For the director of administrative hearings to contract with and make payment to temporary administrative hearings officers, as necessary, for the purpose of providing requested administrative hearings officers to agencies or any unit of local government.
 - b. For the director of administrative hearings to pay mileage, meals, and lodging to any hearings officers, as necessary, in connection with the services to be provided by this Act.

SECTION 8. ADVISORY COUNCIL. There is created a state advisory council for administrative hearings. The advisory council must be a committee or subcommittee of the state bar association of North Dakota, appointed by its president. The advisory council shall meet with the director at least semiannually and shall advise the director on policy matters affecting the office of administrative hearings and on rules adopted by the director.

SECTION 9. REPEAL. Subsection 2 of section 50-24.4-18 and subsection 18 of section 54-12-01 of the North Dakota Century Code are repealed.

SECTION 10. APPROPRIATION. The funds provided in this section, or so much thereof as may be necessary, are hereby appropriated from special funds

derived from federal funds and other income to the office of administrative hearings for the purpose of providing administrative hearings officers for state agencies, and such units of local government, as may require hearings officer services, for the biennium beginning July 1, 1991, and ending June 30, 1993, as follows:

Salaries and wages	\$484,477
Information Services Division	19,000
Operating expenses	67,816
Equipment	<u>33,232</u>
Total estimated income	\$604,525

SECTION 11. TRANSFER - ATTORNEY GENERAL - OFFICE OF MANAGEMENT AND BUDGET. There are hereby transferred the amounts of \$161,443 and \$78,076, now contained in the budgets of the attorney general and the office of management and budget, respectively, or so much thereof as may be necessary, to the office of administrative hearings for the purpose of providing the services authorized in this Act for the biennium beginning July 1, 1991, and ending June 30, 1993, subject to emergency commission approval. The emergency commission, notwithstanding section 54-16-04, is authorized during the biennium beginning July 1, 1991, and ending June 30, 1993, to approve these transfers of funds which are appropriated in section 10 of this Act to the extent necessary and based upon application by the office of administrative hearings.

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