

STATE GOVERNMENT

CHAPTER 504

SENATE BILL NO. 2498
(Senator Naaden)

HONORARY EQUINE

AN ACT to create and enact a new section to chapter 54-02 of the North Dakota Century Code, relating to the designation of an honorary equine.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Honorary equine. The Nokota horse, in recognition of the significant role the breed has played in the history of this state, is designated an honorary equine of North Dakota.

Approved March 31, 1993
Filed April 1, 1993

CHAPTER 505

HOUSE BILL NO. 1256
(Representatives Kretschmar, Ness)

LEGISLATIVE COMPENSATION AND EXPENSES

AN ACT to amend and reenact subsection 1 of section 54-03-19.1, sections 54-03-19.2, and 54-03-20 of the North Dakota Century Code, relating to the legislative compensation commission and travel reimbursement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 54-03-19.1 of the North Dakota Century Code is amended and reenacted as follows:

1. The legislative compensation commission shall ~~determine~~ develop recommendations for a long-term policy on legislative compensation, expense allowance, and insurance benefits, and recommend appropriate ~~rates~~ levels of compensation, expense allowance, and compensation insurance benefits to be paid to or on behalf of members of the legislative assembly.

SECTION 2. AMENDMENT. Section 54-03-19.2 of the North Dakota Century Code is amended and reenacted as follows:

54-03-19.2. Meetings - Powers and duties - Expenses. The commission shall meet at the call of the chairman as often as may be necessary, but at least once during each biennium. The commission shall determine ~~a proper level~~ levels of legislative compensation, expense allowance, and per diem insurance benefits to be paid for service upon interim committees and during legislative sessions, which permit citizens to hold legislative office without undue financial sacrifice or disadvantage. In ~~making such~~ formulating recommendations ~~it shall,~~ the commission may consult with the leadership of the legislative assembly, and review expense and compensation allowances, expense allowance, and insurance benefits for legislative service in other states, and comparable compensation and allowances in other areas of state and federal service as well as and private industry, and shall determine rates of compensation and reimbursements that permit citizens to hold legislative office without undue financial sacrifice or disadvantage. The commission shall report its findings and recommendations regarding legislative compensation policy to the legislative assembly ~~within ten days after the convening of the regular legislative session.~~ The commission may file with the legislative council a bill incorporating its recommendations. Members of the legislative compensation commission must be compensated for time spent in attendance at meetings of the commission and for other travel as approved by the chairman of the legislative council at the rate of sixty-two dollars and fifty cents per day and must be reimbursed for their actual and necessary expenses incurred in the same manner as other state officials. The expense allowance must be paid from appropriations then in effect for the legislative assembly. The commission may solicit the assistance of the staff of the legislative council to provide information, aid, and assistance in carrying out its duties.

SECTION 3. AMENDMENT. Section 54-03-20 of the 1991 Supplement to 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 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~~ A member of the legislative assembly who ~~do~~ does not receive reimbursement for lodging and ~~who do not live whose place of residence in a the legislative district completely or partially that the member represents is not~~ is within the city of Bismarck ~~are~~ is 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~~ the residence and the place of meeting of the legislative assembly when it is in session and ~~may receive reimbursement for lodging at the place of meeting of the legislative assembly as provided in section 44-08-04 for each calendar day for which round trip travel reimbursement is not claimed, provided that this the total 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~~ is entitled to receive during the term for which the member was elected, as compensation for the execution of public duties during the biennium, the sum of one hundred eighty dollars a month, which is payable every six months. If a member dies or resigns from office during the member's term, the member 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)].

Approved April 21, 1993
Filed April 22, 1993

CHAPTER 506

HOUSE BILL NO. 1221
(Representatives Kelsch, Carlisle, Coats)
(Senators Evanson, Mushik)

STATE OFFICER RESIDENCE LOCATION

AN ACT to repeal section 54-06-02 of the North Dakota Century Code, relating to the place of residence of state officers; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 54-06-02 of the North Dakota Century Code is repealed.

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

Approved February 4, 1993
Filed February 4, 1993

CHAPTER 507

HOUSE BILL NO. 1406
(Representative Christopherson)

OMB APPROVAL OF AIRCRAFT CHARTERS

AN ACT to amend and reenact subsection 1 of section 54-06-09 of the North Dakota Century Code, relating to prior approval by the director of the office of management and budget of certain mileage and travel expenses of state officers and employees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 54-06-09 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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.

Approved April 8, 1993
Filed April 9, 1993

CHAPTER 508

HOUSE BILL NO. 1409
(Representative Christopherson)

OUT-OF-STATE TRAVEL AUTHORIZATION

AN ACT to repeal section 54-06-10 of the North Dakota Century Code, relating to authorization for out-of-state travel for state officials and employees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 54-06-10 of the North Dakota Century Code is repealed.

Approved April 7, 1993
Filed April 8, 1993

CHAPTER 509

SENATE BILL NO. 2243
(Senators Nalewaja, DeMers, Robinson)
(Representatives St. Aubyn, Bernstein, Cleary)

LEAVE DONATION AMONG STATE EMPLOYEES

AN ACT to provide for the donation of accumulated annual leave between state employees; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. State leave sharing program.

1. As used in this section:

- a. "Household members" means those persons who reside in the same home, who have reciprocal duties to and do provide financial support for one another. This term includes foster children and legal wards even if they do not live in the household. The term does not include persons sharing the same general house when the living style is primarily that of a dormitory or commune.
- b. "Relative of the employee" is limited to the spouse, child, stepchild, grandchild, grandparent, stepparent, or parent of an employee.
- c. "Severe" or "extraordinary" means serious, extreme, or life threatening.
- d. "State employee" means a permanent employee with over six months continuous service with the state. It does not include employees in probationary status or employees on temporary or other limited term appointments.

2. A state employee may donate annual leave to a fellow state employee who is suffering from or has a relative or household member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition that has caused or is likely to cause the employee to take leave without pay or terminate employment.
3. A state employee is eligible to receive shared leave pursuant to the following conditions:
 - a. The chief administrative officer of the employee determines that the employee meets the criteria described in this section.
 - b. The employee has abided by state policies regarding the use of sick leave.
 - c. The employee's use of shared leave does not exceed four months in any twelve-month period.

4. A state employee may donate annual leave to another state employee only pursuant to the following conditions:
 - a. The receiving employee has exhausted, or will exhaust, all annual leave, sick leave, and compensatory time off due to an illness, injury, impairment, or physical or mental condition, that is of an extraordinary or severe nature, and involves the employee, a relative of the employee, or a household member of the employee;
 - b. The condition has caused, or is likely to cause, the receiving employee to go on leave without pay or terminate employment; and
 - c. The donating employee donates leave in full-hour increments and retains a leave balance of at least eighty hours.
5. The chief administrative officer of the state employee shall require the employee to submit, prior to approval or disapproval, a medical certificate from a licensed physician or health care practitioner verifying the severe or extraordinary nature and expected duration of the condition.
6. Donated annual leave is transferable between employees in different state entities.
7. One hour of donated annual leave must be regarded as one hour of shared leave for the recipient.
8. Any donated leave may only be used by the recipient for the purposes specified in this section and is not payable in cash.
9. All forms of paid leave available for use by the recipient must be used prior to using shared leave.
10. Any shared leave not used by the recipient during each occurrence as determined by the chief administrative officer of the employee may be retained by the recipient.
11. All donated leave must be given voluntarily. No state employee may be coerced, threatened, intimidated, or financially induced into donating annual leave for purposes of the leave sharing program.

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

Approved April 7, 1993
Filed April 8, 1993

CHAPTER 510

HOUSE BILL NO. 1104
(Representatives St. Aubyn, Kelsch)
(Senators Nalewaja, Graba)

FELLOW EMPLOYEE SICK LEAVE DONATION

AN ACT to provide for the donation of accumulated sick leave between state employees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. State sick leave sharing program.

1. As used in this section:
 - a. "Severe" or "extraordinary" means serious, extreme, or life threatening.
 - b. "State employee" means a permanent employee with over six months continuous service with the state. It does not include employees in probationary status or employees on temporary or other limited term appointments.
2. A state employee may donate sick leave to a fellow state employee who is suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition that has caused or is likely to cause the employee to take leave without pay or terminate employment.
3. A state employee may be eligible to receive shared leave pursuant to the following conditions:
 - a. The chief administrative officer of the employee determines that the employee meets the criteria described in this section.
 - b. The employee has abided by state policies regarding the use of sick leave.
 - c. The employee's use of shared leave does not exceed four months in any twelve-month period.
4. A state employee may donate sick leave to another state employee only pursuant to the following conditions:
 - a. The receiving employee has exhausted, or will exhaust, all annual leave, sick leave, and compensatory leave due to an illness, injury, impairment, or physical or mental condition, that is of an extraordinary or severe nature;
 - b. The condition has caused, or is likely to cause, the receiving employee to go on leave without pay or terminate employment; and

- c. The employee may not donate more than five percent of the employee's accrued leave hours, and all leave must be donated in full-hour increments.
5. The chief administrative officer of the state employee shall require the employee to submit, prior to approval or disapproval, a medical certificate from a licensed physician or health care practitioner verifying the severe or extraordinary nature and expected duration of the employee's condition.
6. Donated sick leave is transferable between employees in different state entities.
7. One hour of donated sick leave must be regarded as one hour of shared leave for the recipient.
8. Any donated leave may only be used by the recipient for the purposes specified in this section and is not payable in cash.
9. All forms of paid leave available for use by the recipient must be used prior to using shared leave.
10. Any shared leave not used by the recipient during each occurrence as determined by the chief administrative officer of the employee may be retained by the recipient.
11. All donated leave must be given voluntarily. No state employee may be coerced, threatened, intimidated, or financially induced into donating sick leave for purposes of the leave sharing program.

Approved April 19, 1993
Filed April 20, 1993

CHAPTER 511

SENATE BILL NO. 2027
(Legislative Council)
(Interim Budget Committee on Government Services)

STATE AGENCY CHILD CARE PROVISION

AN ACT to allow a state agency or institution to provide for child care services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Child care services provided by state agency or institution. A state agency or institution may provide for child care services to the children of employees, students, or clients of the agency or institution in accordance with this section. Child care services may be provided by the institution only after the head of the agency or institution determines there is a need for the services and that the services will be provided at rates that are not less than the average rates charged by private child care providers providing comparable services in the community. Child care services may be provided in space available within the facility housing the agency or institution. An agency or institution may operate a child care center in available space or contract with a child care provider for child care services. Within the limits of legislative appropriations, the agency or institution may provide utilities and custodial and maintenance services for the child care center. Additional operating costs, including the salaries for a director and staff and the cost of supplies, must be borne by the center. A child care center provided for by an agency or institution may provide child care services to the children of employees, students, or clients of the agency or institution and, to the extent space is available, to any other children.

Approved April 12, 1993
Filed April 12, 1993

CHAPTER 512

HOUSE BILL NO. 1234
(Representatives St. Aubyn, Kelsch, Poolman)
(Senator Evanson)

STATE EMPLOYEE SUGGESTION INCENTIVES

AN ACT to provide for a suggestion incentive program for state employees; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. State employee suggestion incentive program.

1. There is established a suggestion incentive program for state employees. All persons employed by the state are eligible to participate in the program except state agency heads, administrators, or any supervisors considered at the management level by the state agency head.
2. A state employee may submit a recommendation or proposal to reduce expenditures within the employee's agency to a suggestion incentive committee. The suggestion incentive committee shall administer the employee suggestion incentive program created under this Act and review all recommendations or proposals for reduction of expenditures. The governor shall appoint five state agency heads to the suggestion incentive committee for four-year staggered terms to commence on August first in the year of appointment and to continue until the successors are appointed.
3.
 - a. The suggestion incentive committee shall consider legitimate savings reductions in expenditures made possible within the state agency.
 - b. The suggestion incentive committee shall determine if:
 - (1) The recommendation or proposal has been previously submitted and rejected.
 - (2) Implementation of the recommendation or proposal is desirable and feasible.
 - (3) Implementation of the recommendation or proposal will continue to provide the quality of the services presently provided by the state agency.
 - c. The suggestion incentive committee shall submit to the state agency head of the employee submitting the recommendation or proposal any recommendation and proposal the committee approves.
4. The state agency head shall review and determine whether a recommendation or proposal approved by the suggestion incentive committee is capable of implementation. The state agency head shall make the final decision on acceptance or rejection of a recommendation or proposal.

5. A state employee who submits a recommendation or proposal to reduce expenditures that is approved by the suggestion incentive committee and approved for implementation by the state agency head is entitled to receive ten percent of any savings realized up to a maximum of one thousand dollars. The agency savings must relate directly to the employee's proposed change. The suggestion incentive must be computed on the actual savings for a twelve-month period, the period to run from the time that the proposed change is instituted. An employee is entitled to the suggestion incentive payment at the end of the twelve-month period in a lump sum from funds of the employing state agency that realized the savings. Any payments to an employee under this program are in addition to the employee's regular salary. Employees who qualify for the suggestion incentive are entitled to an award for the first year's savings only and not for any subsequent years.
6. On July first of each year a state agency that makes a suggestion incentive payment in the preceding twelve months shall submit a report to the office of management and budget describing the implemented recommendation or proposal. On September first of each year, the office of management and budget shall provide to all state agencies a report describing the recommendations and proposals to reduce expenditures implemented by state agencies.

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

Approved April 9, 1993
Filed April 9, 1993

CHAPTER 513

HOUSE BILL NO. 1469
(Representatives Dorso, Kerzman, Rydell)
(Senators Evanson, Kinnoin, Lips)

STATE EMPLOYEES COMPENSATION COMMISSION

AN ACT to provide for a state employees compensation commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. State employees compensation commission - Appointment of members.

1. The state employees compensation commission shall make recommendations on appropriate levels of state employee compensation and fringe benefits. The commission may not consider conditions of employment other than salary and fringe benefit issues. The commissioner of labor shall provide staff services for the commission.
2. The governor or the governor's designee is a member of the commission and serves as chairman. Four members of the legislative assembly appointed by the chairman of the legislative council are members of the commission. Four state employees, elected at large by a ballot of all state employees, are members of the commission, three of whom must be members of the classified service of the state and one of whom must be a member of the nonclassified service of the state. The commissioner of labor shall conduct the election for the employee representatives. All commission members serve for a term of two years and may be reappointed or reelected for additional terms of office. The state employee members' terms begin on July first of the year they are elected. The terms of office of members who are members of the legislative assembly and the governor's designee begin on July first of each odd-numbered year. Of the initial state employees who are elected to the commission, one of the members of the classified service and the member of the nonclassified service must be elected for a one-year term and the other two elected state employees must be elected for a two-year term, and before the conclusion of each subsequent term, an election must be held to replace the two members whose terms will end in that year.
3. The commission shall meet at the call of the chairman as often as may be necessary, but at least once during each year of the biennium. The commission shall consider proper levels of compensation and fringe benefits for state employees and make its recommendations on these issues to the governor in time for consideration in preparation of the executive budget to be submitted to the next legislative assembly. The commission shall also submit its recommendations to the legislative council at the biennial meeting at which the legislative council receives the reports of its interim committees.
4. The members of the legislative assembly who are commission members are entitled to receive compensation from the legislative council for each day

in attendance at commission meetings in the same manner as provided in section 54-35-10 for members of the legislative council and reimbursement from the legislative council for travel and other necessary expenses incurred in performing commission duties in the amounts provided for state employees under section 54-06-09. The state employee members of the commission are entitled to receive reimbursement for necessary expenses incurred in attending commission meetings at the rates provided for state employees under section 54-06-09 and may not be assessed any annual leave or loss of salary for attendance at meetings of the commission. The employing agency of state employee members shall pay their expenses.

Approved April 14, 1993

Filed April 15, 1993

CHAPTER 514

HOUSE BILL NO. 1155
(Political Subdivisions Committee)
(At the request of the State Auditor)

POLITICAL SUBDIVISION AUDITS

AN ACT to amend and reenact section 54-10-14 of the North Dakota Century Code, relating to the requirements for audits of political subdivisions; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-10-14 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

¹ **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 the following political subdivisions 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.

¹ NOTE: Section 54-10-14 was also amended by section 16 of House Bill No. 1156, chapter 62.

14. Recreation service districts.
15. Weed boards.
16. Irrigation districts.
17. Rural ambulance service districts.
18. West river water supply district.
19. Southwest water authority.

The state auditor shall charge the political subdivision an amount equal to the fair value of the audit and any other services rendered. Fees for the audit performed by the state auditor must be paid to the state treasurer by the political subdivision audited. The fees must be deposited in the state auditor operating account. Expenses relating to political subdivision audits must be paid from the state auditor operating account, within the limits of legislative appropriation.

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~~ cities with less than three hundred population, and other political subdivisions subject to this section, or otherwise provided by law, with less than ~~fifty~~ one hundred thousand dollars of annual receipts. The reports must contain ~~such~~ the financial information ~~as required by the state auditor may request.~~ The state auditor may also make such additional examination or audit as deemed necessary in addition to the annual report. ~~When a report is not filed, the state auditor may charge the political subdivision an amount equal to the fair value of the additional examination or audit and any other services rendered.~~ The state auditor may charge a political subdivision a fee not to exceed fifty dollars an hour for the costs of reviewing a financial ~~the annual report.~~

~~The governing board of any A political subdivision may provide for an audit, at the option of its governing body, be audited by a certified public accountant or licensed public accountant and then rather than by the state auditor is not required to make the examination provided for in this section. The public accountant shall comply with generally accepted government auditing standards for audits of political subdivisions. 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 public accountant delivers the audit report is delivered to the political subdivision. The state auditor shall review the audit reports to determine if the reports are in the required form and have the required content, and if the audit meets generally accepted government auditing standards. The state auditor may also periodically review the public accountant's workpapers to determine if the audit meets generally accepted government auditing standards. If the reports are in the required form and have the required content, and the reports and workpapers comply with generally accepted government auditing standards, the state auditor shall accept the audit report. The state auditor may charge the public accountant political subdivision a fee of up to fifty dollars an hour, but not to exceed five hundred dollars per review, for the related costs of reviewing the audit report and workpapers.~~

~~The governing board of the A political subdivision may not pay the audit fee until evidence of the filing is furnished, unless the a public accountant~~

~~performing the for an 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 until the state auditor has accepted the audit. However, a political subdivision may make progress payments to the public accountant. If the political subdivision makes progress payments, the governing body of the A political subdivision shall retain twenty percent of each any progress payment until evidence is furnished that the audit report has been properly filed with is accepted by 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 board, officers, or employees of the subdivisions political subdivision disclosed by the audit ~~reports~~ report or workpapers, and failure to make the corrections shall result in audits being resumed by the state auditor until the irregularities, objectionable accounting 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 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. EFFECTIVE DATE. This Act is effective for any issued audit report dated after August 1, 1993.

Approved April 30, 1993
Filed May 3, 1993

CHAPTER 515

HOUSE BILL NO. 1200
(Human Services Committee)
(At the request of the Office of Management and Budget)

SEXUAL ABUSE INVESTIGATION TEAM

AN ACT to amend and reenact section 54-12-04.2 of the North Dakota Century Code, relating to child sexual abuse investigation and prosecution.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-12-04.2 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-12-04.2. 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~~ employed by the attorney general. 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.

Approved March 22, 1993
Filed March 23, 1993

CHAPTER 516

SENATE BILL NO. 2229
(Appropriations Committee)

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

LIGNITE RESOURCE EVIDENCES OF INDEBTEDNESS

AN ACT to provide for a continuing appropriation of lignite research funds; and to amend and reenact section 54-17.5-05 of the North Dakota Century Code, relating to lignite resource evidences of indebtedness issued by the industrial commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-17.5-05 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-17.5-05. 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. Not later than July fifteenth of each year preceding the biennial session of the legislative assembly, the industrial commission shall submit to the office of the budget a request for the amount required to be appropriated from the lignite research fund to pay debt service on outstanding evidences of indebtedness during the following biennium.
3. 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.

4. The industrial commission shall establish and maintain a reserve fund for evidences of indebtedness issued under this chapter. There must be deposited in the reserve fund:
 - a. All moneys appropriated by the legislative assembly to the commission for the purpose of the reserve fund.
 - b. All proceeds of evidences of indebtedness issued under this chapter required to be deposited in the reserve fund by the terms of any contract between the commission and the holders of its evidences of indebtedness or any resolution of the commission concerning the proceeds of its evidences of indebtedness.
 - c. Any lawfully available moneys of the commission which it may determine to deposit in the reserve fund.
 - d. Any moneys from any other source made available to the commission for deposit in the reserve fund.
5. Moneys in the reserve fund may be expended only to pay the principal of and interest on evidences of indebtedness, including payment of any premium required to be paid when evidences of indebtedness are redeemed prior to maturity, and sinking fund installments as the same become due and payable.
6. Moneys in the reserve fund may only be withdrawn in conformity with the terms of any contract between the commission and the holders of its evidences of indebtedness or any resolution of the commission concerning the proceeds of its evidences of indebtedness.
7. The industrial commission must include in its biennial request to the office of the budget the amount, if any, necessary to restore the reserve fund to an amount equal to the amount required to be deposited in the fund by the terms of any contract or resolution described in subdivision b of subsection 4. The legislative assembly may appropriate such amount from the lignite research fund to the commission for deposit in the reserve fund. If sufficient moneys are not available in the lignite research fund, the legislative assembly may appropriate any amount necessary out of any moneys in the general fund or any special funds in the state treasury not otherwise appropriated.

SECTION 2. Lignite research fund - Continuing appropriation. All money deposited in the lignite research fund is appropriated as a continuing appropriation to the industrial commission, except as provided in section 54-17.5-05, to be used for the purposes stated in chapter 54-17.5.

Approved March 25, 1993
Filed March 26, 1993

CHAPTER 517

SENATE BILL NO. 2151
(Natural Resources Committee)
(At the request of the Industrial Commission)

INDUSTRIAL COMMISSION AND LIGNITE RESEARCH COUNCIL RECORD CONFIDENTIALITY

AN ACT to amend and reenact section 54-17.5-06 of the North Dakota Century Code, relating to access to industrial commission and lignite research council records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-17.5-06 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-17.5-06. Access to commission records.

1. Materials and data submitted to, or made or received by, the commission, to the extent that the commission determines 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, and are subject to section 44-04-18.4.
2. A person or entity must file a request with the commission to have material designated as confidential under subsection 1. The request must contain any information required by the commission, and must include at least the following:
 - a. A general description of the nature of the information sought to be protected.
 - b. An explanation of why the information derives independent economic value, actual or potential, from not being generally known to other persons.
 - c. An explanation of why the information is not readily ascertainable by proper means by other persons.
 - d. A general description of any person or entity that may obtain economic value from disclosure or use of the information, and how the person or entity may obtain this value.
 - e. A description of the efforts used to maintain the secrecy of the information.
3. Any request under subsection 2 is confidential. The commission shall examine the request and determine whether the information is relevant to the matter at hand and is a trade secret under the definition in section 47-25.1-01 or 44-04-18.4. If the commission determines the information is

either not relevant or not a trade secret, the commission shall notify the requester and the requester may ask for the return of the information and request within ten days of the notice. If no return is sought, the information and request are a public record.

4. The names or identities of independent technical reviewers on any project or program and the names of individual lignite council members making recommendations are confidential, may not be disclosed by the commission, and are not public records subject to section 44-04-18 or section 6 of article XI of the Constitution of North Dakota.

Approved March 4, 1993
Filed March 5, 1993

CHAPTER 518

SENATE BILL NO. 2179
(Education Committee)

(At the request of the Superintendent of Public Instruction)

MISSING CHILDREN LOCATION

AN ACT to amend and reenact section 54-23.2-04.2 of the North Dakota Century Code, relating to identification and location of missing children.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-23.2-04.2 of the North Dakota Century Code is amended and reenacted as follows:

54-23.2-04.2. School enrollment procedures to aid identification and location of missing children.

1. When a child enrolls in a public or nonpublic school, licensed day care facility, ~~or~~ home-based instruction, licensed day care center, licensed child care facility, headstart program, or nursery school for the first time, the school, licensed day care facility, headstart program, 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 or proof of identity 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 centers, licensed child care facilities, headstart programs, and nursery schools whether public, ~~private, or parochial~~ nonpublic.

Approved March 4, 1993

Filed March 5, 1993

CHAPTER 519

SENATE BILL NO. 2147
(Judiciary Committee)

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

CORRECTIONS EMPLOYEE INFORMATION CONFIDENTIAL

AN ACT to provide for confidentiality of selected information regarding department of corrections and rehabilitation employees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Confidentiality of selected information pertaining to department of corrections and rehabilitation employees. Telephone numbers and home addresses of department of corrections and rehabilitation employees 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. If this information is recorded with other public information, the department shall permit inspection and receipt of copies of the public information that is not confidential, and shall delete or withhold the confidential information. No public agency or record custodian may deny a request for public information on the ground that it is recorded with confidential addresses and phone numbers. Records containing this information may be disclosed to appropriate authorities under policy established by the North Dakota department of corrections and rehabilitation.

Approved March 10, 1993
Filed March 11, 1993

CHAPTER 520

SENATE BILL NO. 2076
(Appropriations Committee)
(At the request of the State Treasurer)

CHECKS OF STATE TREASURER APPROPRIATION

AN ACT to amend and reenact section 54-27-15.1 of the North Dakota Century Code, relating to checks issued by the state treasurer; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

Approved March 25, 1993
Filed March 26, 1993

CHAPTER 521

HOUSE BILL NO. 1323
(Representatives Wilkie, Allmaras, Jacobs)
(Senators Jerome, Krauter, Langley)

MOTOR VEHICLES REGISTERED BY TRIBES

AN ACT to create and enact section 54-27-19.2 of the North Dakota Century Code, relating to the reporting of the number of motor vehicles registered under tribal authority on an Indian reservation for the purpose of calculating each county's share of highway tax distribution fund; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 54-27-19.2 of the North Dakota Century Code is created and enacted as follows:

54-27-19.2. Reporting of number of motor vehicles registered on Indian reservations - Use for determining each county's share of highway tax distribution fund. Before the tenth day of each month, each governing body of an Indian reservation having a motor vehicle registration ordinance may report the number of motor vehicles registered on the reservation to the director of the department of transportation. The director of the department of transportation shall multiply the number of motor vehicles reported by a factor that represents the portion of funds in the highway tax distribution fund derived from taxes on motor fuels and other special fuels during the most recent fiscal year. The director of the department of transportation shall report the resulting product to the state treasurer for incorporation into the county distribution formula in subsection 2 of section 54-27-19 as follows:

1. Where the boundaries of the Indian reservation do not encompass more than one county, the director of the department of transportation shall credit the total product to that county.
2. Where the boundaries of the Indian reservation encompass more than one county, the director of the department of transportation shall allocate the product to each county containing a portion of the Indian reservation in the ratio of the number of reservation registered motor vehicles in that county to the total of reservation registered motor vehicles in all the counties containing a portion of that Indian reservation. If the number of reservation registered motor vehicles in a county containing a portion of an Indian reservation is not available, the director of the department of transportation shall allocate the product to each county containing a portion of an Indian reservation in the ratio of the number of miles of county roads, as designated under section 24-05-16, within the county on the reservation to the total of the number of miles of county roads on the reservation.

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

Approved April 1, 1993
Filed April 2, 1993

CHAPTER 522

HOUSE BILL NO. 1407
(Representative Christopherson)

STATE AGENCY PROPERTY INVENTORY

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

Approved April 7, 1993
Filed April 8, 1993

CHAPTER 523

SENATE BILL NO. 2487
(Senator Graba)

LOCAL GOVERNMENT EFFICIENCY PLANNING GRANTS

AN ACT to amend and reenact subsection 1 of section 54-35.2-02.1 of the North Dakota Century Code, relating to local government efficiency planning grants; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 54-35.2-02.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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 the administration of county or city government, changes in county boundaries including consolidation of counties, or consolidation or sharing of county and city officials or services. The commission may also expend funding directly on behalf of county and city governments for defraying the expenses of research and studies.

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 \$51,400, or so much of the sum as may be necessary, to the advisory commission on intergovernmental relations for the purpose of providing planning grants to counties and cities under section 54-35.2-02.1 for the period beginning with the effective date of this Act and ending June 30, 1995.

Approved April 12, 1993
Filed April 12, 1993

CHAPTER 524

SENATE BILL NO. 2357
(Senators Dotzenrod, Lindgren, Thane, Tomac, Graba)

UNEXPENDED LOCAL GOVERNMENT GRANTS

AN ACT to create and enact a new subsection to section 54-35.2-02.1 of the North Dakota Century Code, relating to redeposit of returned funds from local government efficiency planning grants in the state aid distribution fund; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 54-35.2-02.1 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

Unexpended grant funds that are returned must be deposited in the state aid distribution fund.

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

Approved March 22, 1993
Filed March 23, 1993

CHAPTER 525

HOUSE BILL NO. 1360
(Representative Wardner)

REGIONAL COUNCILS

AN ACT to amend and reenact sections 54-40.1-01, 54-40.1-02, 54-40.1-03, 54-40.1-04, 54-40.1-05, and 54-40.1-06 of the North Dakota Century Code, relating to regional councils.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-40.1-01 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-40.1-01. Legislative findings and purpose. The legislative assembly finds that the citizens of the state have a fundamental interest in the orderly development of the state and its resources. This finding recognizes the fact that the mobility of the population, changes in economic forces, and governmental mandates within and without the state ~~presents present~~ problems ~~which that~~ cannot always be met by individual counties or cities and that local government planning and development efforts can be strengthened when aided by studies ~~and~~ planning, and implementation of both a statewide and regional character.

The legislative assembly further finds that the state has a positive interest in the establishment, preparation, and maintenance of a long-term, continuing, comprehensive planning and development process for the physical, social, and economic development of the state and each of its regions to serve as a guide for activities of state and local governmental units.

It is the purpose of this chapter to establish a consistent, comprehensive statewide policy for planning, economic development, program operations, coordination, and related cooperative activities of state and local governmental units and to enhance the ability of and opportunity for local governmental units to resolve issues and problems transcending their individual boundaries. In furtherance of this purpose, the legislative assembly finds that the governor, ~~through the department of economic development and finance,~~ is required to assure orderly and harmonious coordination of state and local plans and programs with federal, state, and regional planning and programming.

SECTION 2. AMENDMENT. Section 54-40.1-02 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-40.1-02. Definitions. In this chapter, unless the context or subject matter otherwise ~~requires~~ require:

1. "City" means any city incorporated under the laws of this state.
2. ~~"Executive officer" means the mayor in council cities or modern council cities and the president of the board of city commissioners in commission cities.~~

- ~~3-~~ "Governing body" means the city council or the board of city commissioners or the board of county commissioners.
- 4- ~~3-~~ "Industry" includes agriculture and business.
- ~~5-~~ ~~4-~~ "Member-at-large" means a person who represents the general citizenry of the county.
- ~~6-~~ ~~5-~~ "Minority group" means any identifiable group of people, regardless of numerical size, whose members are denied or limited in employment, education, or training opportunities because of sex, race, creed, color, religion, national origin, or low income.
- ~~7-~~ ~~"Office" means the department of economic development and finance.~~
- ~~8-~~ ~~6-~~ "Organized local development corporation" means any group organized for the purpose of promoting economic development which has filed for incorporation as such with the secretary of ~~state's office~~ state.
- ~~9-~~ ~~7-~~ "Region" means the area delineated by executive order of the governor.
- ~~10-~~ ~~8-~~ "Regional comprehensive plan" means a long-range guide for the economic, physical, and social development of a region which identifies regional goals, objectives, and opportunities and embodies the policies of the regional council.
- ~~11-~~ ~~9-~~ "Regional council" means the council for comprehensive planning and development established in each region pursuant to section 54-40-08.
- ~~12-~~ ~~10-~~ "Units of general local government" means cities, counties, and organized townships.

SECTION 3. AMENDMENT. Section 54-40.1-03 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-40.1-03. Regional council - Membership.

1. Total membership on a regional council must be determined by the participating units of general local government, subject to the following minimum criteria of membership:
 - a. A majority of the full regional council membership must be ~~comprised~~ composed of existing elected city officials and county commissioners. Selection of these members must be by their respective governing bodies.
 - b. One member of the regional council may represent identifiable and organized minority groups existing in the region. Selection of the member may be made by the minority groups upon invitation from the regional council.
 - c. One soil conservation district supervisor from each county must be appointed to the regional council to represent the 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~~

contains 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.

- d. One or more members of the regional council, selected by the local development corporations, shall represent the organized local development corporations existing in the region.
 - e. The chairman of the regional employment training council or the chairman's designee must be appointed to the regional council.
 - f. An alternate must be selected for each regular member of the regional council in the same manner as the regular member is selected. The alternate member is to serve on the regional council when the regular member is absent and shall enjoy the same responsibilities and privileges as a regular member enjoys.
2. The term of office of each member of the regional council must be as determined by the regional council and specified in its agreements, rules, or procedures. However, if a person is a member of the regional council as the result of being a member of the governing body of a city or a county, that person's term on the regional council ~~shall expire~~ expires at the same time ~~his~~ that person's term of public office expires and another person must be appointed to the regional council in the same manner as the selection was made for the member whose term expires.
 3. Special or standing committees may be appointed to assist and advise the regional council. Members of special or standing committees must be appointed by the regional council. Membership on special or standing committees is not limited to the members of the regional council.
 4. The regional council may elect an executive board from the members of the regional council. The executive board shall perform the administrative duties prescribed in the agreements, rules, or procedures of the regional council.
 5. The regional council shall determine the rate at which expenses of regional council members and members of any special or standing committees must be paid for expenses incurred in attending meetings of the regional council and the committees and in the performance of their official duties, but the amounts may not exceed the amounts provided by law for state officers.

SECTION 4. AMENDMENT. Section 54-40.1-04 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-40.1-04. Regional council - Powers and duties. A regional council shall:

1. Adopt agreements, rules, or procedures as may be necessary to effectuate planning and development in the region.
2. Coordinate planning and development within the region for all matters of regional concern as determined by the regional council, including land use, social and economic planning, economic development, transportation,

health, environmental quality, water and sewerage, solid waste, flood relief, parks and open spaces, hospitals, and public buildings.

3. Participate with other public agencies and private organizations in regard to research for planning activities relevant to the region.
4. For the purpose of coordination, work with state departments, agencies, and institutions in reviewing and commenting on all plans and federal aid applications as to their impact on the region.
5. Develop guidelines for the coordination of land use plans and ordinances within the region.
6. Prepare a regional comprehensive plan and upon the preparation of such a plan or any phase, amendment, revision, extension, addition, functional part, or part thereof, file such plan, phase, functional part, amendment, revision, extension, addition, or part thereof with the office, all local planning agencies within the region, and other planning agencies in adjoining areas.
7. Develop an annual budget for operations during a fiscal year ~~and submit the budget to participating units of general local government for approval.~~
8. Receive and expend federal, state, and local funds, and contract for services with units of general local government and private individuals and organizations, consistent with the scope and objectives of a planning ~~function~~ and development functions.
9. Upon availability of funds, hire an executive director who must be given full control over the staff of the regional council. The executive director shall act as a liaison between the regional council and the staff of the regional council and shall advise and assist the regional council in the selection of staff.
10. Provide technical assistance for primary sector business development by leveraging local funds to assist in product development, product testing, business plan development, feasibility studies, gaining patent protection, legal services, market strategy development, and other needs to stimulate business development.
11. Host business outreach forums to stimulate entrepreneurship and interchange with potential investment and forums on other matters of importance to the local area.
12. Upon request, facilitate the financing of local economic development activities, such as interest buydown programs and local revolving loan fund programs, without regard to the fiscal source.
13. Act as a regional development corporation as provided by the individual regional council's bylaws.
14. Have authority to purchase, own, and manage real property for the purpose of the business incubator and regional council administrative functions.

SECTION 5. AMENDMENT. Section 54-40.1-05 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-40.1-05. Reports. Each regional council shall prepare an annual report within sixty days after the end of each fiscal year. Copies of the report must be submitted to the participating units of general local government, to the governor or his the governor's designee, ~~to the department of economic development and finance,~~ and to members of the legislative assembly in each region. To the extent practicable, the report must include projects completed or in progress and sources of funding.

SECTION 6. AMENDMENT. Section 54-40.1-06 of the North Dakota Century Code is amended and reenacted as follows:

54-40.1-06. Dissolution of regional council. A regional council may be dissolved as prescribed in the agreements, rules, or procedures of the regional council. Upon dissolution, all properties of the regional council will be converted to cash or evaluated as to worth and divided among participating units of general local government in proportion to the amount of their financial participation.

Approved April 1, 1993
Filed April 2, 1993

CHAPTER 526

SENATE BILL NO. 2049
(Legislative Council)
(Interim Waste Management Committee)

COMPREHENSIVE WASTE MANAGEMENT PLAN

AN ACT to require the office of management and budget to prepare and submit to the governor and the legislative council a comprehensive solid waste management plan for state agencies, departments, and institutions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Comprehensive solid waste management plan - Submission to the governor and legislative council. By July 1, 1994, the office of management and budget in consultation with the state department of health and consolidated laboratories shall prepare and submit to the governor and the legislative council a comprehensive solid waste management plan that assesses the ability of each state agency, department, and institution to reduce the amount of solid waste it generates and increase the amount of recycled products it uses. The plan must be consistent with the purposes expressed in section 23-29-02.

Approved April 7, 1993
Filed April 8, 1993

CHAPTER 527

SENATE BILL NO. 2410
(Senator W. Stenehjem)

JUDICIAL AND LEGISLATIVE BUDGET SUBMISSION

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-44.1-13 of the 1991 Supplement to 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 25, 1993
Filed March 26, 1993

CHAPTER 528

HOUSE BILL NO. 1391
(Representatives Gerntholz, Clayburgh, Kroeber)
(Senators Lips, Robinson, Yockim)

**COMMUNICATIONS, ACCOUNTING, AND
RECORDS GRANTS**

AN ACT to amend and reenact section 54-44.2-02.5 of the North Dakota Century Code, relating to a grant program to assist counties and cities in developing a communications, uniform accounting, and records maintenance system; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-44.2-02.5 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.2-02.5. Accounting and records maintenance grant program. The information services division shall establish a grant program to assist counties and cities in developing a uniform communications, accounting, and records maintenance system. A county or city may apply to the information services division for a grant of up to five fifteen thousand dollars, which must be used for the purchase of communications equipment, data processing equipment, or for contracting for training on the use of data processing the equipment. A county or city awarded a grant under this section shall match or exceed the grant amount with county or city 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 and the North Dakota league of cities. The information services division, after consultation with the North Dakota association of counties and the North Dakota league of cities, shall establish guidelines for the review of grant applications and the distribution of grants. The information services division may expend moneys from this account for purposes of implementing this section. The guidelines must give preference to grant applications that provide for joint facilities and applications among any combination of two or more counties or cities, and for those applications that include a comprehensive technology planning process. Joint grant applications are eligible for an award in an amount equal to the combined amounts of grants that would result if those counties or cities applied separately.

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 of the sum as may be necessary, to the state treasurer, who shall distribute the moneys to counties and cities as directed by the director of the information services division for the purpose of providing grants under section 1 of this Act for the biennium beginning July 1, 1993, and ending June 30, 1995.

Approved April 30, 1993
Filed May 3, 1993

CHAPTER 529

HOUSE BILL NO. 1028
(Legislative Council)
(Interim Budget Committee on Human Services)

SPECIALIZED TELECOMMUNICATIONS SERVICES

AN ACT to establish a program to provide specialized telecommunications services and equipment to the communications impaired; to provide for a telephone access line surcharge to fund the program; to provide an appropriation; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

1. "Administrator" means the individual employed by the division to oversee administration of the program.
2. "Commission" means the public service commission.
3. "Communications impaired" means the condition of an individual who is deaf, hearing impaired, or speech impaired.
4. "Division" means the information services division of the office of management and budget.
5. "Local exchange company" means a telecommunications company that provides telephone access lines to members of the general public who are its customers.
6. "Program" means the program established under section 3.
7. "Radio communications access" means the radio access between a customer of a radio communications service provider and the provider.
8. "Radio communications service provider" means a telecommunications company that provides radio communication service or cellular service to members of the general public who are its customers.
9. "Specialized telecommunications equipment" means a device that, when connected to a telephone, enables or assists a person who is communications impaired to communicate with another person utilizing the telephone network. The term may include telecommunications devices for the deaf, amplifiers, and signaling devices.
10. "Telecommunications relay service" means a statewide service through which a communications-impaired individual, using specialized telecommunications equipment, may send and receive messages to and from a noncommunications-impaired individual whose telephone is not equipped with specialized telecommunications equipment and through which a

noncommunications-impaired individual, by using voice communication, may send and receive messages to and from a communications-impaired individual.

11. "Telephone access line" means the facilities between a serving central office and the customer of a local exchange company which are required to provide access to the local and toll network.

SECTION 2. Responsibilities of the administrator. The administrator shall oversee the division's administration of the program. The administrator shall:

1. Review and recommend policies and procedures governing administration of the program and ensure the program is in compliance with any applicable state or federal law or rule;
2. Prepare a budget for administration of services under the program;
3. Monitor the expenditures of funds for the program;
4. Monitor the quality of the program and the satisfaction of the users; and
5. Perform any other duties necessary to oversee administration of the program.

SECTION 3. Program established - Purpose.

1. The division shall establish and administer a program to provide telecommunications relay service to persons who are communications impaired.
2. The program shall provide a telecommunications relay service to allow persons who are communications impaired to communicate via the telecommunications network with noncommunications-impaired persons.
3. The vocational rehabilitation division of the department of human services shall furnish specialized telecommunications equipment to meet the needs of individuals who are communications impaired and who might be otherwise disadvantaged in their ability to obtain such equipment. The vocational rehabilitation division shall determine eligibility and may provide the specialized telecommunications equipment to individuals determined eligible within the limits of funding made available to the vocational rehabilitation division through gifts and grants received under section 6 of this Act and from funding made available by the information services division from the surcharge collected pursuant to section 8 of this Act, which are hereby appropriated.

SECTION 4. Responsibilities of the division. The division shall:

1. Develop rules, policies, and procedures, as may be necessary, to govern administration of the program.
2. Implement the telecommunications relay service as described in subsection 2 of section 3 of this Act by July 26, 1993, to the extent funds generated by the surcharge described in section 10 are available.
3. Perform any other duties necessary to properly administer the program.

SECTION 5. Telecommunications relay service - Requirements.

1. The division shall contract with a qualified provider to design and implement a telecommunications relay service that fulfills the requirement of subsection 2 of section 3 of this Act. The division shall award the contract for this service to the offerer whose proposal is the most advantageous to the state; considering price, the interests of the communications-impaired community in having access to a high quality and technologically advanced telecommunications system, and all other factors listed in the request for proposals.
2. Except in cases of willful misconduct, gross negligence, or bad faith, neither the division nor the provider of the telecommunications relay service, nor the employees of the provider, are liable for any damages or claims for relief arising out of or resulting from the establishment of, participation in, or operation of the telecommunications relay service.
3. The division shall require, under the terms of the contract, that:
 - a. The service be available statewide for operation seven days a week, twenty-four hours per day, including holidays, for both interstate and intrastate calls.
 - b. The service relay all messages promptly and accurately.
 - c. The service maintain the privacy of persons using the system.
 - d. The provider preserve the confidentiality of all telephone communications.
 - e. The service conform to any standards established by applicable state or federal laws or rules.

SECTION 6. Gifts and grants. The vocational rehabilitation division may accept contributions and gifts and may apply for and accept grants, in money or otherwise, to the program. Monetary contributions, gifts, and grants must be deposited in the state treasury to be credited to the department of human services operating account.

SECTION 7. Telecommunications services account for the communications impaired. The telecommunications services account for the communications impaired consists of all surcharges billed and collected pursuant to section 8. Subject to legislative appropriation, the division may expend moneys from the account for purposes of implementing this Act.

SECTION 8. Telephone access line and radio communications access surcharge.

1. Before May first of each year, the division shall report all cost data and other information to the commission. Each local exchange company and radio communications service provider shall report all information requested by the division in order to determine the number of telephone access lines and radio communications access service numbers. Before June first of each year, the commission shall determine the amount of a surcharge, not to exceed eleven cents per telephone access line per month, based upon available cost data and other information provided by the division, necessary to cover the costs of providing intrastate

telecommunications relay service as provided in section 401 of the federal Americans with Disabilities Act of 1990 [47 U.S.C. 225], including the cost of implementing and administering this Act which includes the provision of specialized equipment to eligible persons, and taking into consideration any surplus in the telecommunications services account. The surcharge is imposed effective on its determination by the commission and must be billed and collected as provided in this Act. The surcharge is subject to section 49-21-01.3. Funding for the interstate portion of the state telecommunications relay service must be provided in a manner consistent with rules and orders adopted by the federal communications commission in implementing the federal Americans with Disabilities Act. The division shall notify each local exchange company and radio communications service provider, in writing, of the amount of the monthly surcharge determined by the commission.

2. Each local exchange company and radio communications service provider shall include and identify the surcharge determined under subsection 1 in its monthly billing for service to a customer of the company or provider.
3. Each customer of a local exchange company or radio communications service provider is liable for payment to the local exchange company or radio communications service provider of any surcharge imposed pursuant to this Act. The local exchange company or radio communications service provider is not liable for any uncollected surcharge, nor does the company have an obligation to take any legal action to enforce the collection of any surcharge that is unpaid by its customers.
4. No customer of a local exchange company may be required to pay the surcharge on more than one hundred telephone access lines per account and no customer of a radio communications service provider may be required to pay the surcharge on more than one hundred radio communications access service numbers per account in this state.
5. Except as provided in subsection 6, a local exchange company or radio communications service provider shall transmit all surcharges billed and collected to the division no later than the last day of the month following the end of the calendar quarter in which the surcharge is collected. The administrator shall remit the surcharges received to the state treasurer. The state treasurer shall deposit all surcharges received in the state treasury to the credit of the telecommunications services account for the communications impaired.
6. Each local exchange company or radio communications service provider may deduct and retain five percent of the total surcharges billed and collected each month to cover its administrative expense in complying with the requirements of subsections 2, 3, 4, and 5.

SECTION 9. Records - Audit. Each local exchange company or radio communications service provider shall maintain a record of the surcharges billed and collected pursuant to section 8 for a period of three years from the date of billing or collection, respectively. The commission may audit each local exchange company's or radio communications service provider's records to assure compliance with this Act.

SECTION 10. APPROPRIATION. There is hereby appropriated out of any moneys in the telecommunications services account for the communications impaired in the state treasury, not otherwise appropriated, the sum of \$752,400, or so much of the sum as may be necessary, to the information services division of the office of management and budget for the purpose of implementing this Act for the period beginning with the effective date of this Act and ending June 30, 1995. Of this amount, up to \$68,400 must be made available to the vocational rehabilitation division of the department of human services to be matched with \$252,100 of federal funds for the provision of specialized equipment to eligible persons, which is hereby appropriated for the period beginning with the effective date of this Act and ending June 30, 1995. The administrator of the program shall provide reports to the budget section of the legislative council regarding the implementation of the telephone access line and radio communications access surcharge, expenditures for specialized telecommunications equipment, and the status of the appropriation.

SECTION 11. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 21, 1993
Filed April 22, 1993

CHAPTER 530

SENATE BILL NO. 2156
(Government and Veterans Affairs Committee)
(At the request of the Secretary of State)

STATE RECORDS RETENTION

AN ACT to amend and reenact section 54-46-08 of the North Dakota Century Code, relating to retention schedules for state records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-46-08 of the North Dakota Century Code is amended and reenacted as follows:

54-46-08. Determination necessary for final disposition of records. Prior to the final disposition of any type or class of record, the administrator, after consultation with the official or department head concerned, the attorney general, the state auditor, and the state archivist, shall determine that the type or class of record has no further administrative, legal, or fiscal value and is subject to final disposition under section 54-46-08.1 or section 54-46-09. If a statute requiring retention of a record does not either provide a specific retention period or specifically provide that the record be permanently retained, the administrator, after completing the consultation required by this section, shall establish a specific retention period for the record. The administrator shall annually survey the state agencies and shall order final disposition under section 54-46-08.1 or section 54-46-09 of any records which have been determined to have no further administrative, legal, or fiscal value pursuant to this section.

Approved March 10, 1993
Filed March 11, 1993

CHAPTER 531

SENATE BILL NO. 2118
(Political Subdivisions Committee)
(At the request of the Department of Human Services)

SOCIAL SERVICE RECORD RETENTION

AN ACT to amend and reenact section 54-46-13 of the North Dakota Century Code, relating to state and county social service records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-46-13 of the North Dakota Century Code is amended and reenacted as follows:

54-46-13. Rules for ~~final disposition of certain state and county social service records - Administrator to promulgate~~ adopt. The administrator shall ~~promulgate~~ adopt rules and regulations in accordance with chapter 28-32 for the ~~destruction or other final disposition of state and county social service case files pertaining to work relief and public assistance programs after such files have been closed for a minimum period of six years and shall also promulgate rules and regulations for the destruction of other final disposition of other state and county social service records which are obsolete or have been duplicated records. The rules adopted by the administrator must be consistent with records retention requirements imposed by federal law with respect to those records.~~ The administrator, prior to ~~promulgation~~ adoption, amendment, or repeal of rules and regulations for the destruction of concerning state and county social service files and records, shall consult with the executive director of the department of human services in regard to the destruction of such files and records.

Approved March 4, 1993
Filed March 5, 1993

CHAPTER 532

HOUSE BILL NO. 1072
(Government and Veterans Affairs Committee)
(At the request of the Public Employees Retirement System)

PERS COMPREHENSIVE CHANGES

AN ACT to create and enact a new section to chapter 54-52 and a new section to chapter 54-52.1 of the North Dakota Century Code, relating to continuing appropriations for certain retirement benefits and health insurance benefits; to amend and reenact subsection 18 of section 54-52-01, sections 54-52-02.6, 54-52-03, subsection 8 of section 54-52-04, and sections 54-52-17, 54-52-17.4, and 54-52-26 of the North Dakota Century Code, relating to definitions repurchase of past service, public employees retirement system board authority, public employees retirement system board membership and compensation, purchase of additional credit, payment for prior service, service benefits, consultant fees, and confidentiality of records under the public employees retirement system; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 18 of section 54-52-01 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

18. "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~~ eligible to participate as a permanent employee, who is at least eighteen years old and not actively contributing to another employer sponsored pension fund, and, if employed by a school district, occupies a noncertified teacher's position.

SECTION 2. AMENDMENT. Section 54-52-02.6 of the 1991 Supplement to 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 the member's account balance under subsection 7 of section 54-52-17 and thus forfeit all rights ~~to under the retirement plan benefits.~~ An individual upon reemployment may, within one hundred eighty days of reemployment, elect to repurchase the forfeited past service for retirement and the retiree health benefits program in accordance with rules established by the board.

SECTION 3. AMENDMENT. Section 54-52-03 of the North Dakota Century Code is amended and reenacted as follows:

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

public employees retirement system or the state retirement and investment office may serve on the board.

1. One member of the board must be appointed by the governor to serve a term of five years. The appointee must be a North Dakota citizen who is not a state or ~~school district~~ political subdivision employee and who by experience is familiar with money management. The citizen member is chairman of the board.
2. One member of the board must be appointed by the attorney general from the attorney general's legal staff and shall serve a term of five years.
3. The state health officer appointed under section 23-01-05 is a member of the board.
4. Three board members must be elected by and from among the active participating members. Employees who have terminated their employment for whatever reason are not eligible to serve as elected members of the board under this subsection. Board members must be elected to a five-year term pursuant to an election called by the board. Notice of board elections must be given to all active participating members. The time spent in performing duties as a board member may not be charged against any employee's accumulated annual or any other type of leave.
5. One board member must be elected by and from among those persons who are receiving retirement benefits or who are eligible to receive deferred vested retirement benefits under this chapter. The board shall call the election and must give prior notice of the election to the persons eligible to participate in the election pursuant to this subsection. The board member shall serve a term of five years.
6. ~~The chairman of the board shall receive fifty dollars per day for the actual time devoted by the chairman to the duties of the chairman's office and each of the other members of the board shall receive an honorarium of fifty dollars for each month during which the board has been in session~~ members of the board are entitled to receive compensation 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. This is in addition to any other pay or allowance due the chairman or a member, plus an allowance for expenses they may incur through service on the board.
7. A board member shall serve a five-year term and until the board member's successor qualifies. Each board member is entitled to one vote, and four of the seven board members constitute a quorum. Four votes are necessary for resolution or action by the board at any meeting.

SECTION 4. AMENDMENT. Subsection 8 of section 54-52-04 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

8. The board ~~annually~~ shall annually report ~~in accordance with section 21-10-06.1~~ the investment performance of the funds that it administers and distribute a copy to each participant.

SECTION 5. AMENDMENT. Section 54-52-17 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

¹ **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 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 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 is the average salary for the total months of employment.
3. Retirement dates are defined as follows:
 - a. Normal retirement date, except for a national guard security officer or firefighter, 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. 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 reaching the age of sixty-five years. ~~For a national guard security~~

¹ NOTE: Section 54-52-17 was also amended by sections 1 and 2 of House Bill No. 1075, chapter 534, and by section 2 of Senate Bill No. 2067, chapter 533.

~~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 normal retirement date.~~

- 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.
- 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; and
 - (2) Applies for disability retirement benefits within twelve months of the date the member terminates employment.

A member is eligible to continue to receive disability benefits as long as the permanent and total disability continues and the member submits the necessary documentation and undergoes medical testing required by the board, or for as long as the member participates in a rehabilitation program required by the board, or both. If the board determines that a member no longer meets the eligibility definition, the board may discontinue the disability retirement benefit. The board is authorized to pay the cost of any medical testing or rehabilitation services it deems necessary and these payments are hereby appropriated from the retirement fund for those purposes.

4. The board shall calculate retirement benefits as follows:

- a. ~~Normal retirement~~ Single life benefits for all retirees, except supreme and district court judges and national guard security officers or firefighters, reaching normal retirement date equal an annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which is determined as follows:
 - (1) Service benefit equals one and 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-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, 1991, are entitled to benefits calculated at one and 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, 1991.
- b. ~~Normal retirement~~ Single life benefits for all supreme and district court judges under the public employees retirement system reaching normal retirement date 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. ~~Normal retirement~~ Single life 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 are calculated as for ~~normal retirement~~ single life benefits for those members who retired on or after July 1, 1977.
 - e. Early retirement benefits are calculated as for ~~normal retirement~~ single life 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.
 - f. Disability retirement benefits are twenty-five percent of the member's final average salary. 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~~ single life 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~~ single life 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~~ single life benefit.

SECTION 6. AMENDMENT. Section 54-52-17.4 of the 1991 Supplement to 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, 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 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.
 - f. Employment as a permanent employee of a governmental unit not located in North Dakota, except that any such years of out-of-state employment are not eligible for credit in North Dakota if the years claimed also qualify for retirement benefits from an out-of-state retirement system.
2. Supreme and district court judges under the public employees retirement system may elect to purchase credit for the following years of service:
 - a. Except as provided in subsection 4, for up to four years of credit for active employment in the armed forces of the United States.
 - b. As a county judge in a county or counties that did not participate in the public employees retirement system under this chapter.
 - c. Participation in the public employees retirement system as a county judge may be converted to credit in the judges retirement system.
- 2- 3. The participating member may purchase credit under this section by paying to the board an amount equal to eight 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 the actuarial cost to the fund of providing the credit.~~ 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 an amount equal to the actuarial cost to that fund for the additional credit. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. The board shall adopt rules governing the purchase of additional credit under this section.~~

3- 4. 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 7. AMENDMENT. Section 54-52-26 of the North Dakota Century Code is amended and reenacted as follows:

54-52-26. Confidentiality of records. ~~Information pertaining to a member's retirement account balance, disability applications and benefits, and surviving spouse applications and benefits under this chapter is confidential and is All records relating to the retirement benefits of a member or a beneficiary under this chapter are confidential and are not a public record. The information records. This section does not prohibit any party from obtaining this information from other agencies or governmental sources.~~ Information and records may be disclosed, under rules adopted by the board, only to:

1. A person to whom the member has given written consent to have the information disclosed.
2. A person legally representing the member, upon proper proof of representation, and unless the member specifically withholds consent.
3. A person authorized by a court order.

SECTION 8. A new section to chapter 54-52 of the North Dakota Century Code is created and enacted as follows:

Retirement benefits - Continuing appropriation. 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.

SECTION 9. A new section to chapter 54-52.1 of the North Dakota Century Code is created and enacted as follows:

Uniform group insurance program benefits - Continuing appropriation. The funds necessary to pay the consulting fees and health insurance benefits related to

the uniform group insurance program are hereby appropriated from insurance premiums received by the board.

Approved March 22, 1993
Filed March 23, 1993

CHAPTER 533

SENATE BILL NO. 2067

(Government and Veterans Affairs Committee)

(At the request of the Public Employees Retirement System)

NATIONAL GUARD SECURITY OFFICER AND FIREFIGHTER RETIREMENT BENEFITS

AN ACT to amend and reenact section 54-52-06.2 and subsection 4 of section 54-52-17 of the North Dakota Century Code, relating to the employer contribution and retirement benefits for national guard security officers and firefighters 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 54-52-06.2 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-52-06.2. 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 determined by the board to be actuarially required to support the level of benefits specified in section 54-52-17.~~ 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 2. AMENDMENT. Subsection 4 of section 54-52-17 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. The board shall calculate retirement benefits as follows:

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

¹ NOTE: Section 54-52-17 was also amended by section 5 of House Bill No. 1072, chapter 532, and by sections 1 and 2 of House Bill No. 1075, chapter 534.

- (1) Service benefit equals one and 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-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, 1991, are entitled to benefits calculated at one and 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, 1991.
- b. Normal retirement benefits for all supreme and district court judges under the public employees retirement system reaching normal retirement date 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. 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 are calculated as for normal retirement benefits for those members who retired on or after July 1, 1977.
- e- d. Early retirement benefits 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.

- ~~f.~~ e. Disability retirement benefits are twenty-five percent of the member's final average salary. The minimum monthly disability retirement benefit under this section is one hundred dollars.

SECTION 3. APPLICATION OF ACT. This Act applies to benefits payable after June 30, 1993.

Approved March 10, 1993
Filed March 11, 1993

CHAPTER 534

HOUSE BILL NO. 1075
(Government and Veterans Affairs Committee)
(At the request of the Public Employees Retirement System)

PERS RETIREMENT AND BENEFITS

AN ACT to create and enact two new sections to chapter 54-52 of the North Dakota Century Code, relating to prior service retiree adjustments under the public employees retirement system; 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 normal retirement date for participating members of the public employees retirement system and the computation of benefits under the public employees retirement system; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹ **SECTION 1. AMENDMENT.** Subdivision a of subsection 3 of section 54-52-17 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- a. Normal retirement date, except for a national guard security officer or firefighter, 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.

² **SECTION 2. AMENDMENT.** Subdivision a of subsection 4 of section 54-52-17 of the 1991 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 and national guard security officers or firefighters, reaching normal retirement date equal an annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which is determined as follows:

¹ NOTE: Section 54-52-17 was also amended by section 5 of House Bill No. 1072, chapter 532, and by section 2 of Senate Bill No. 2067, chapter 533.

² NOTE: Section 54-52-17 was also amended by section 5 of House Bill No. 1072, chapter 532, and by section 2 of Senate Bill No. 2067, chapter 533.

- (1) Service benefit equals one and ~~sixty-nine hundredths~~ seven hundred twenty-five thousandths percent of final average salary multiplied by the number of years of service employment.
- (2) Prior service benefit equals one and ~~sixty-nine hundredths~~ seven hundred twenty-five thousandths percent of final average salary multiplied by the number of years of prior service employment.
- (3) All participants who retired before ~~July 1, 1991~~ August 1, 1993, are entitled to benefits calculated at one and ~~sixty-nine hundredths~~ seven hundred twenty-five thousandths percent of final average salary, multiplied by the number of years of service employment, with the increased benefits payable beginning ~~July 1, 1991~~ August 1, 1993.

SECTION 3. AMENDMENT. Subdivision a of subsection 4 of section 54-52-17 of the 1991 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 and national guard security officers or firefighters, reaching normal retirement date equal an annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which is determined as follows:
 - (1) Service benefit equals one and ~~sixty-nine~~ seventy-four hundredths percent of final average salary multiplied by the number of years of service employment.
 - (2) Prior service benefit equals one and ~~sixty-nine~~ seventy-four hundredths percent of final average salary multiplied by the number of years of prior service employment.
 - (3) All participants who retired before ~~July 1, 1991~~ January 1, 1994, are entitled to benefits calculated at one and ~~sixty-nine~~ seventy-four hundredths percent of final average salary, multiplied by the number of years of service employment, with the increased benefits payable beginning ~~July 1, 1991~~ January 1, 1994.

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

Prior service retiree adjustment. Prior service retirees who are receiving benefits under this chapter on July 31, 1993, are entitled to receive an increase in benefits equal to two percent of the individual's present benefit, with the increased benefits payable beginning August 1, 1993. A prior service retiree is a former participating employee who receives a supplemental monthly payment from the retirement system based upon the original prior service credit system.

SECTION 5. A new section to chapter 54-52 of the North Dakota Century Code is created and enacted as follows:

Prior service retiree adjustment. Prior service retirees who are receiving benefits under this chapter on December 31, 1993, are entitled to receive an

increase in benefits equal to one percent of the individual's present benefit, with the increased benefits payable beginning January 1, 1994. A prior service retiree is a former participating employee who receives a supplemental monthly payment from the retirement system based upon the original prior service credit system.

SECTION 6. EFFECTIVE DATE. Sections 3 and 5 of this Act are effective for benefit payments on and after January 1, 1994. However, sections 3 and 5 of this Act do not become effective unless the public employees retirement board determines before January 1, 1994, with the advice of its actuary, that sections 3 and 5 of this Act can be implemented on an actuarially sound basis.

Approved April 8, 1993
Filed April 9, 1993

CHAPTER 535

SENATE BILL NO. 2068
(Government and Veterans Affairs Committee)
(At the request of the Public Employees Retirement System)

UNIFORM GROUP INSURANCE PARTICIPATION

AN ACT to amend and reenact subsections 1, 3, 4, and 5 of section 54-52.1-03 and section 54-52.1-03.1 of the North Dakota Century Code, relating to participation in the uniform group insurance program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 1, 3, 4, and 5 of section 54-52.1-03 of the North Dakota Century Code are amended and reenacted as follows:

1. Any eligible employee may be enrolled in the uniform group insurance program created by this chapter by requesting enrollment with the employing department. If an eligible employee does not enroll in the uniform group insurance program at the time of beginning employment, the eligible employee must meet minimum requirements established by the board to enroll thereafter.
3. ~~Upon the termination of eligible employment of a member of the legislative assembly, or upon the retirement of an eligible employee who is entitled to a retirement allowance from a department, board, or agency, or upon the termination of employment of an eligible employee not of retirement age who, upon retirement, will receive a deferred retirement allowance from a department, board, or agency, that employee or that employee's surviving spouse A retiree who has accepted a retirement allowance from the public employees retirement system, the highway patrolmen's retirement system, the teachers' insurance and annuity association of America - college retirement equities fund (TIAA-CREF) for service credit earned while employed by North Dakota institutions of higher education, the retirement system established by job service North Dakota under section 52-11-01, the judges' retirement system established under chapter 27-17, or the teachers' fund for retirement may continue as a member of elect to participate in the uniform group under this chapter without meeting minimum requirements at age sixty-five, when the member's spouse reaches age sixty-five, upon the receipt of a benefit, or when the spouse terminates employment. If a retiree or surviving spouse does not elect to participate at the times specified in this subsection, the retiree or surviving spouse must meet the minimum requirements established by the board. Subject to sections 54-52.1-03.2 and 54-52.1-03.3, each retired employee and each former member of the legislative assembly or the surviving spouse of that retired employee or former legislative assembly member retiree or surviving spouse shall pay directly to the board the premiums in effect for the coverage then being provided.~~

4. Upon the termination of employment where the employee is not ~~a member of the legislative assembly or entitled to either retirement benefits or a deferred retirement allowance~~ eligible to participate under subsection 3 or 5 or applicable federal law, that employee cannot continue as a member of the uniform group ~~unless the employee was on the uniform group insurance retiree billings as of July 1, 1974. However, the employee may continue on an individual basis with the carrier, with such coverage to be offered at the lowest possible rate, to be determined by the board.~~
5. A member or former member of the legislative assembly or that person's surviving spouse may elect to continue membership in the uniform group within the applicable time limitations after either termination of eligible employment as a member of the legislative assembly or termination of other eligible employment or, for a surviving spouse, upon the death of the member or former member of the legislative assembly. The member or former member of the legislative assembly or that person's surviving spouse shall pay the premiums in effect for the coverage provided directly to the board.

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

54-52.1-03.1. Certain political subdivisions authorized to join uniform group insurance program - Employer contribution. The board of county commissioners of any county, the governing body of any city or school district, a district health unit, or any combination thereof, may extend the benefits of the uniform group insurance program under this chapter to its permanent employees, subject to minimum requirements established by the board and a minimum period of participation of ~~twenty-four~~ sixty months. If the board of county commissioners of a participating county, the governing body of any participating city or school district, a district health unit, or any combination thereof, withdraws from participation in the uniform group insurance program, before completing sixty months of participation, that entity may not subsequently renew participation for a period of at least twenty-four months from the date of withdrawal shall make payment to the board in an amount equal to any expenses incurred in the uniform group insurance program that exceed income received on behalf of the entity's employees as determined under rules adopted by the board. The boards of county commissioners of participating counties and the governing bodies of participating cities or school districts, district health units, or any combinations thereof may determine the amount of the employer's monthly contribution toward the total monthly premium amount required of each eligible participating employee.

Approved April 7, 1993
Filed April 8, 1993

CHAPTER 536

SENATE BILL NO. 2066
(Government and Veterans Affairs Committee)
(At the request of the Public Employees Retirement System)

RETIREE HEALTH BENEFITS FUND

AN ACT to amend and reenact subdivision a of subsection 1 of section 54-52.1-03.2 and subsection 2 of section 54-52.1-03.3 of the North Dakota Century Code and section 4 of chapter 627 of the 1991 Session Laws of North Dakota, relating to investment of the retiree health benefits fund 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. Subdivision a of subsection 1 of section 54-52.1-03.2 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 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.~~

SECTION 2. AMENDMENT. Section 4 of chapter 627 of the 1991 Session Laws of North Dakota is amended and reenacted as follows:

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 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 3. AMENDMENT. Subsection 2 of section 54-52.1-03.3 of the 1991 Supplement to 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 four dollars and fifty cents multiplied by the member's or deceased member's number of years of credited service under the highway patrolmen's retirement system, the public employees retirement system, the retirement program established by job service North Dakota under section 52-11-01, 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. 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.

Approved March 16, 1993

Filed March 16, 1993

CHAPTER 537

SENATE BILL NO. 2251
(Senators Mathern, Scherber, Wogsland)
(Representatives Mahoney, Rydell, Ness)

UNIFORM GROUP INSURANCE FOR POLITICAL SUBDIVISION EMPLOYEES

AN ACT to amend and reenact section 54-52.1-03.4 of the North Dakota Century Code, relating to participation by employees of political subdivisions in the uniform group insurance program; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-52.1-03.4 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-03.4. Participation by employees of certain political subdivisions and temporary employees. An employee of a county, city, school district, district health unit, or park district that is not participating in the uniform group insurance program pursuant to section 54-52.1-03.1 and is not eligible for any other employee group health plan may elect to participate in the uniform group insurance program by completing the necessary enrollment forms and qualifying under the medical underwriting requirements established by the board. The board may use risk adjusted premiums for individual insurance contracts to implement the provisions of this section allowing employees of a county, city, school district, district health unit, or park district to participate in the uniform group insurance program. The county, city, school district, district health unit, or park district employee participating in the uniform group insurance program under this section shall pay monthly to the board the premiums in effect for the coverage being provided. A temporary employee may elect to participate in the uniform group insurance program by completing the necessary enrollment forms and qualifying under the medical underwriting requirements of the program. The temporary employee shall pay monthly to the board the premiums in effect for the coverage being provided. A political subdivision, department, board, or agency may not make a contribution for this coverage under this section. The board may employ one additional employee to implement the provisions of this section relating to participation by employees of a county, city, school district, district health unit, or park district in the uniform group insurance program.

SECTION 2. APPROPRIATION. There is hereby appropriated out of any moneys received by the North Dakota public employees retirement system board in the form of insurance premiums, not otherwise appropriated, the sum of \$75,000, or so much of the sum as may be necessary, to the North Dakota public employees retirement system board for the purpose of administering the provisions of this Act for the biennium beginning July 1, 1993, and ending June 30, 1995.

Approved April 7, 1993
Filed April 8, 1993

CHAPTER 538

SENATE BILL NO. 2070
(Government and Veterans Affairs Committee)
(At the request of the Public Employees Retirement System)

STATE DEFERRED COMPENSATION PLAN ADMINISTRATION

AN ACT to create and enact a new section to chapter 54-52.2 of the North Dakota Century Code, relating to administration of the deferred compensation plan for public employees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-52.2 of the North Dakota Century Code is created and enacted as follows:

Deferred compensation program - Board authority.

1. The board shall adopt rules necessary to implement this chapter and to manage the deferred compensation plan subject to the limitations of this chapter.
2. The board shall do all things necessary to preserve the tax-exempt status of the plan.
3. All providers must be authorized to do business in this state and all agents of providers must be licensed by the appropriate licensing authority or authorities in this state.
4. To continue to participate in the program, each provider must report annually, in a form and manner specified by the board, information related to their products, administrative and management fees, contract and maintenance charges, withdrawal penalties, market rating, and such other information the board may require.
5. The board may suspend participation of any provider that does not meet the requirements of this chapter or the rules adopted by the board.
6. The board has the authority to establish a deferred compensation advisory committee which shall include active providers who have signed a provider administrative agreement with the state of North Dakota deferred compensation plan.

Approved March 10, 1993
Filed March 11, 1993

CHAPTER 539

HOUSE BILL NO. 1295
(Representatives Brodshaug, Stenehjem)
(Senator Scherber)

CHILDREN'S SERVICES COORDINATING COMMITTEE

AN ACT to amend and reenact section 54-56-01 of the North Dakota Century Code, relating to the membership of the children's services coordinating committee.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-56-01 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

¹ **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 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 or that chairperson's designee, a representative of the Indian affairs commission, 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 March 22, 1993
Filed March 23, 1993

¹ NOTE: Section 54-56-01 was also amended by section 17 of House Bill No. 1156, chapter 62.

CHAPTER 540

SENATE BILL NO. 2086
(Judiciary Committee)

(At the request of the Office of Administrative Hearings)

ADMINISTRATIVE HEARINGS OFFICE JURISDICTION AND COMPENSATION

AN ACT to amend and reenact sections 54-57-03 and 54-57-07 of the North Dakota Century Code, relating to the jurisdiction of the office of administrative hearings and compensation for providing hearing officers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-57-03 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-57-03. 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, except investigatory hearings under section 28-32-08 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~~ individuals with disabilities education act and section 504 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, prior to the hearing, the agency may issue a default order and a written notice of default, including a statement of the grounds for default. The agency shall determine all the issues involved. 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 if a hearing is 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~~ must preside. ~~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, to any tribal government in this state, to the judicial branch, or to any agency to conduct a rulemaking hearing.

SECTION 2. AMENDMENT. Section 54-57-07 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-57-07. 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 to any unit of local government in this state, to any tribal government in this state, or to the judicial branch,~~ 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 except for those payments required of the department of human services and the state department of health and consolidated laboratories. 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 chapter, 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 chapter.

Approved March 30, 1993

Filed April 1, 1993