

GENERAL PROVISIONS

CHAPTER 91

HOUSE BILL NO. 1069
(Legislative Council)
(Interim Judiciary "C" Committee)

TECHNICAL CORRECTIONS ACT

AN ACT to amend and reenact sections 4-30-52, 6-09-27, 10-19-31, 11-05.1-04, 11-11-49, 12-60-19, 12.1-04-10, 15-47-42, subsection 2 of section 15-62.3-01, sections 16.1-06-07, 19-01-14, 23-17-11, 26-03-35, 26-11.1-05, 27-10-12, 29-02-24, 29-06-25, subsection 1 of section 30.1-21-03, sections 33-01-21, 33-05-01, 33-12-19, 35-22-12, subsection 3 of section 37-01-40, sections 39-01-08, 39-04-01, 39-04-15.1, paragraph 21 of subdivision a of subsection 3 of section 39-06.1-10, sections 39-16.1-07, 40-01-12, 40-18-19, 40-22-05, 40-33.1-04, 40-34-07, 40-35-10, 40-42-04, 40-57-11, subsection 2 of section 40-60-02, subsection 3 of section 40-61-03.1, sections 41-09-41, 43-11-20.4, 49-16-05, subsection 1 of section 51-13-03, section 51-13-07, subsection 3 of section 54-01.1-03, sections 54-07-01.2, 54-49.1-02, 55-01-01, 57-02-20, 57-20-01, 57-20-09, 57-20-22, 57-22-29, 57-24-12, 57-28-20, 57-28-21, 57-29-01, 57-29-04, 57-29-05, 57-38-61, 57-52-11, 58-03-07, 58-06-01, 59-05-58, 60-07-05, and 61-21-65 of the North Dakota Century Code, relating to disposal of illegal milk or milk products, civil actions on bank transactions, voting list for meeting of shareholders, approval of county consolidation plans, the board of county commissioners offering a reward for theft and related offenses, cooperation of bureau of criminal investigation with combined law enforcement council, petition to clerk of court when defendant is acquitted on the ground of mental disease or defect which excludes responsibility, status and authority of student teachers, definition of agency in the chapter on the tuition assistance grant program, arrangement of names on the ballot, service and return of a search warrant pursuant to the chapter on the state laboratories department, the acceptance of federal funds, supplies, and equipment for chiropractic hospitals, provisions required in a life insurance policy issued on other than a standard form, exceptions to the application of the title on insurance, the accused being discharged from arrest on delivery of an undertaking, when law enforcement officers may disperse an assembly, the procedure used when a person is arrested without a warrant, closing estates by the sworn statement of a

personal representative, when moneys collected by the county justice should be paid to the county treasurer, when a writ of attachment on personal property may be issued by a county justice, a jury trial in county justice court, the right to costs when foreclosing a mortgage by advertisement, definition of Indian wars in the chapter on the military, state and political subdivisions authorization to carry insurance on vehicles, definition of reconstructed vehicle in the chapter on motor vehicle registration, penalty for failure to register vehicles, entries against driving records, reasons for revocation of a license, audit of claims and accounts against municipalities, appeals from determinations of the municipal judge, condemnation of land and rights of way for special improvements, methods for financing projects by the municipal steam heating authority, negotiability of first mortgage bonds, negotiability of bonds and interim receipts or certificates, the requirement that the proof at trial must conform to the claim filed with the municipality, powers of municipalities pertaining to parking areas, methods for financing projects by the municipal parking authority, formal requisites of a financing statement, permit requirements for persons who solicit business for a school of hairdressing, contracts exempting railroads from liability, finance charge limitation on retail installment contracts, penalties for violation of provisions in the chapter on retail installment sales, moving and related expenses under the Model Relocation Assistance Act, power of the governor to appoint the majority of members of certain boards and commissions, composition of the natural resources council, composition of the state historical board, personal property tax exemption for farm machinery for one year, due date for real and personal taxes, discount for early payment of real estate taxes, disposition of penalties on general taxes and interest on certificates of sale issued, contracts for tax collection, sale of lands at public auction by the county auditor, disposition of proceeds from sale of land for delinquent taxes, cancellation from the record of all taxes after the sale of the real estate, suspension of tax liens on state acquired lands, the auditor disclosing tax information on lands in which the state is interested, applicability of provisions in the chapter on income tax, distribution of the special fuels tax, powers of electors at annual township meetings, general powers of the board of township supervisors, application of laws to powers in trust and the trustees of such powers, passage of title by negotiable warehouse receipts to goods stored, consolidation of drainage districts into water management districts; and to repeal sections 9-11-08, 29-22-16, 29-22-36, 30-26-26, and 57-24-11 of the North Dakota Century Code, relating to definitions in the chapter on assignment of account receivables, contents of general verdicts, procedure for commitment of defendant acquitted when defense was "mental disease or defect which excludes responsibility", costs of an appeal, court clerks issuing blank subpoenas for defendants, verdicts of the jury in county justice court, and sale of

general and hail indemnity taxes; all such amendments and repeals constituting a composite Technical Corrections Act.

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

SECTION 1. AMENDMENT. Section 4-30-52 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-52. DISPOSAL OF ILLEGAL MILK OR MILK PRODUCTS. Any milk or cream offered for sale and which is in violation of any provisions of this chapter or the rules and regulations of the dairy department shall be colored with a harmless food coloring and returned to the owner. Any other milk product which is in violation of this chapter or the rules and regulations of the dairy department and has been seized or ordered held by the dairy commissioner shall be disposed of as any other illegal food or drug as outlined in chapter ~~19-02~~* 19-02.1.

SECTION 2. AMENDMENT. Section 6-09-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09-27. CIVIL ACTIONS ON BANK TRANSACTIONS - NAME OF PARTIES - SERVICE - VENUE - AUDIT BOARD PROVISIONS INAPPLICABLE. Civil actions may be brought against the state of North Dakota on account of causes of action claimed to have arisen out of transactions connected with the operation of the Bank of North Dakota upon condition that the provisions of this section are complied with. In such actions, the state shall be designated as "The State of North Dakota, doing business as The Bank of North Dakota", and the service of process therein shall be made upon the president of the Bank. ~~Sueh~~ The actions may be brought in the same manner and shall be subject to the same provisions of law as other civil actions. ~~Sueh~~ The action shall be brought, however, in the county where the Bank of North Dakota shall have its principal place of business, except as provided in sections 28-04-01, 28-04-02, 28-04-03, 28-04-04, and 28-04-06. ~~The--provisions-of-sections-54-14-01*-and-54-14-06-shall not-apply-to-claims-against-the-state-affected-by-the-provisions--of this-section-~~

SECTION 3. AMENDMENT. Section 10-19-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-19-31. VOTING LIST. The officer or agent having charge of the stock transfer books for shares of a corporation shall make, at least ten days before each meeting of shareholders, a complete list of the shareholders entitled to vote at ~~sueh~~ the meeting or any adjournment thereof, arranged in alphabetical order, with the address of and the number of shares held by each, which list, for a period of ten days prior to such meeting, shall be kept on file at the registered office of the corporation and shall be subject to inspection by any shareholder at any time during usual business hours. ~~Sueh~~ The list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection

of any shareholder during the whole time of the meeting. The original stock transfer books shall be prima facie evidence as to who are the shareholders entitled to examine such the lists or transfer book or to vote at any meeting of shareholders.

Failure to comply with the requirements of this section shall not affect the validity of any action taken at such the meeting.

An officer or agent having charge of the stock transfer books who shall fail to prepare the list of shareholders, or keep it on file for a period of ten days, or produce and keep it open for inspection at the meeting, as provided in this section, shall be liable to any shareholder suffering damage on account of such the failure, to the extent of such damage.

The provisions of chapter ~~10-18--as--amended--or--renumbered~~ 41-08, except where in conflict with this section, shall ~~continue--to~~ apply--and control the transfer of shares.

SECTION 4. AMENDMENT. Section 11-05.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-05.1-04. APPROVAL OF CONSOLIDATION PLAN. If the committee shall approve a consolidation plan, it shall submit a report and a map showing the boundaries of the proposed county consolidation to the board of county commissioners of the county and of each affected adjoining county. Such The reports may also be made available to all interested persons. When such the reports and maps have been received by the respective boards of county commissioners, the board of county commissioners of the county to be consolidated and the board of county commissioners of all affected adjoining counties shall act pursuant to sections 11-05-04 through, 11-05-05, 11-05-06, 11-05-07, 11-05-08, 11-05-09, 11-05-10, 11-05-11, 11-05-12, 11-05-13, 11-05-14, 11-05-16, 11-05-17, 11-05-18, 11-05-19, 11-05-20, 11-05-21, 11-05-22, 11-05-23, 11-05-24, 11-05-25, 11-05-26, and 11-05-27.

SECTION 5. AMENDMENT. Section 11-11-49 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-11-49. BOARD MAY OFFER REWARD. The board of county commissioners may offer a reward of a sum not exceeding one hundred dollars nor less than ten dollars for the apprehension and conviction of each person violating any of the provisions of chapters ~~12-40--and--12-41--or--who--takes--by--fraud--or--stealth--any--wheat--oats--rye--barley--flax--or--other--grain--or--any--other--property--of--another--with--intent--to--deprive--the--owner--thereof~~ 12.1-21 and 12.1-23.

SECTION 6. AMENDMENT. Section 12-60-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-60-19. COOPERATION OF BUREAU. The bureau shall work and cooperate with the ~~commission--on--peace--officers--standards--and~~

~~training~~ combined law enforcement council as heretofore established in the ~~fields~~ course of training specified in ~~section--54-50-02*~~ sections 12-61-09, 12-61-10, and 12-61-11, and in such other related fields as said ~~commission~~ council and the bureau may deem feasible.

SECTION 7. AMENDMENT. Section 12.1-04-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12.1-04-10. ACQUITTAL DUE TO MENTAL DISEASE OR DEFECT - ~~APPLICATION-TO-MENTAL-HEALTH-BOARD~~ PETITION TO CLERK OF COURT. When the defendant is acquitted on the ground of mental disease or defect which excludes responsibility, the state's attorney shall file a written ~~application--with--the--county-mental-health-board~~ petition with the clerk of court as provided in section 25-03.1-08 for determination of the defendant's need for institutional custody, care, or treatment pursuant to ~~section-25-03-11~~ chapter 25-03.1.

SECTION 8. AMENDMENT. Section 15-47-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-42. STATUS AND AUTHORITY OF STUDENT TEACHERS. Any student teacher, during the time ~~such the~~ student teacher is assigned as a student teacher, shall be given the same legal authority and status as if the student teacher were a certificated employee of the school district in which he is assigned. The authority of the student teacher shall extend to all aspects of student management or discipline, in the handling of confidential records of students, and in all other aspects of legal authority granted to certificated employees of the school districts in the state. The student teacher shall be deemed a certificated employee of the district with respect to acts performed by him at the direction, suggestion, or consent of the certificated employees under whose supervision and control the holder performs his duties, whether or not ~~such the~~ duties are performed entirely in the presence of the employees of the district assigned to supervise the holder, and shall be deemed an employee of the school district within the meaning of sections 39-01-08 and ~~40-43-07~~ 32-12.1-05 relating to liability insurance carried by political subdivisions.

SECTION 9. AMENDMENT. Subsection 2 of section 15-62.3-01 of the 1979 Interim Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "Agency" means the ~~North--Dakota--student--financial~~ assistanee-agency state board of higher education.

SECTION 10. AMENDMENT. If House Bill No. 1225 is not approved by the forty-seventh legislative assembly, then section 16.1-06-07, as created by section 16, chapter 271, of the 1979 Session Laws and printed as a footnote in the 1979 Interim Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16.1-06-07. ARRANGEMENT OF NAMES ON BALLOT FOR PRESIDENTIAL ELECTORS. The ballot provided for in section ~~16-1-06-05~~ 16-11-05 shall be arranged as follows:

1. Initially, the names of the candidate of the party casting the highest number of votes in the state for members of Congress at the last preceding general election shall be arranged in the first or left-hand column of such ballot; of the party casting the next highest number of votes in the second column; of the party casting the next highest number of votes in the third column; and of such other party as the secretary of state may direct in the fourth and successive columns.
2. In printing each set of official ballots for the various election precincts, one-half of the ballots shall be printed with the political party columns arranged as prescribed by subsection 1 of this section, and the other half of the ballots shall be printed by interchanging only the first two political party columns.
3. After the ballots are printed as prescribed in subsection 2 of this section, they shall be kept in separate piles and then repiled by taking one ballot from each pile and placing it upon the new pile so that every other ballot in the new pile has the first two political party columns in different positions. This repiling for political party column rotation shall be done in conjunction with the required rotation of names within the political party columns. After the repiling is completed, the ballots shall be cut and packaged for the various election precincts.
4. In presidential election years the names of presidential electors presented in one certificate of nomination shall be arranged in a group enclosed in brackets to the right and opposite the center of which shall be printed in bold type the surname of the presidential candidate represented. To the right and in a line with such surname, near the margin, shall be placed a single square, and a mark within such square shall be designated a vote for all the electors, and such group shall be placed at the head of the column under the party designated or represented in such certificate.
5. In precincts in which voting machines are used, the rotation of political party columns required by this section shall be performed in the same manner as provided for the primary election ballot.

SECTION 11. AMENDMENT. Section 19-01-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-01-14. SERVICE AND RETURN OF SEARCH WARRANT AND PROCEEDINGS THEREON. The provisions of sections 29-29-01 ~~to 29-29-19, inclusive~~ and 29-29-18 and rule 41 of the North Dakota Rules of Criminal Procedure, as to the service and return of a search warrant, and hearing, and return thereon to the district court, shall govern in cases of search warrants issued pursuant to the provisions of this chapter except that testimony of witnesses need not be reduced to writing. If the magistrate finds that the property seized is property of the kind described in the search warrant and that there is probable cause to believe that the grounds on which the search warrant was issued existed, he shall send the property so seized to the district court, together with his return. If he finds that there is not probable cause to believe that the grounds on which the search warrant was issued existed, he shall order the property returned to the person from whom it was taken.

SECTION 12. AMENDMENT. Section 23-17-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-17-11. ACCEPTANCE OF FEDERAL FUNDS, SUPPLIES AND EQUIPMENT FOR CHIROPRACTIC HOSPITALS. The state board of chiropractic examiners is hereby authorized and empowered for, and on behalf of the chiropractic profession and their patients in the state of North Dakota to accept any funds or grants through appropriate channels ~~appropriation-of-the-counties-of-the-United-States~~ and any supplies and equipment which may be made available to this state for hospital facilities, goods and services.

SECTION 13. AMENDMENT. Section 26-03-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-03-35. PROVISIONS REQUIRED IN LIFE INSURANCE POLICY ISSUED ON OTHER THAN STANDARD FORM. No policy of life insurance in form other than a standard form prescribed in this chapter shall be issued or delivered in this state, unless the same shall contain the following:

1. A provision that all premiums shall be payable in advance either at the home office of the company, or to an agent of the company, upon delivery of a receipt signed by one or more of the officers who shall be named in the policy.
2. A provision for a grace of one month for the payment of every premium after the first, which may be subject to an interest charge, during which month the insurance shall continue in force, which provision may contain a stipulation that if the insured shall die during the month of grace, the overdue premium will be deducted in any settlement under the policy.
3. A provision that the policy shall constitute the entire contract between the parties and shall be incontestable after it shall have been in force during the lifetime of the insured for two years from its date, except for

nonpayment of premiums and except for violations of the policy relating to naval or military service in time of war, and, at the option of the company, provisions relative to benefits in the event of total and permanent disability and provisions which grant additional insurance specifically against death by accident also may be excepted.

4. A provision that all statements made by the insured, in the absence of fraud, shall be deemed representations and not warranties, and that no such statement shall avoid the policy unless it is contained in a written application and a copy of ~~such~~ the application shall be endorsed upon or attached to the policy when issued.
5. A provision that if the age of the insured has been understated, the amount payable under the policy shall be such as the premium would have purchased at the correct age.
6. A provision that the policy shall participate in the surplus of the company and that, beginning not later than the end of the third policy year, the company annually will determine and account for the portion of the divisible surplus accruing on the policy, and that the owner of the policy shall have the right each year to have the current dividend arising from such participation paid in cash; and if the policy shall provide other dividend options, it shall provide further which one of the four standard options shall be effective if the owner of the policy shall not elect any of ~~such~~ the other options. This provision, however, shall not be required in nonparticipating policies.
7. A provision that after the policy has been in force three full years, the company at any time while the policy is in force, will advance on proper assignment of the policy and on the sole security thereof, at a specified rate of interest, a sum equal to, or at the option of the owner of the policy, less than the reserve at the end of the current policy year on the policy and on any dividend additions thereto, computed according to a mortality table, interest rate, and method of valuation permitted by ~~section 26-10-01~~ chapter 26-10.1, less a sum not more than two and one-half percent of the amount insured by the policy and of any dividend additions thereto; and that the company will deduct from ~~such~~ the loan value any existing indebtedness on the policy and any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year; which provision may provide further that ~~such~~ the loan may be deferred for not exceeding six months after the application thereof is made. It shall be stipulated further in the policy that failure to repay any

such advance or to pay interest thereon shall not void the policy unless the total indebtedness thereon to the company shall equal or exceed ~~such~~ the loan value at the time of ~~such~~ the failure nor until one month after notice shall have been mailed by the company to the last known address of the insured and of the assignee, if any. No condition other than as herein provided shall be exacted as a prerequisite to any such advance. This provision shall not be required in a policy of term insurance.

~~8. Repealed-by-S-L-1977-eh-247-§-11-~~

~~9--Repealed-by-S-L-1977-eh-247-§-11-~~

~~10-~~ A provision that if, in event of default in premium payments, the value of the policy shall be applied to the purchase of other insurance, and if ~~such~~ the insurance shall be in force and the original policy shall not have been surrendered to the company and canceled, the policy may be reinstated within three years from ~~such~~ the default upon evidence of insurability satisfactory to the company and payment of arrears of premiums with interest.

~~11-~~ 9. A provision that when a policy shall become a claim by the death of the insured, settlement shall be made upon receipt of due proof of death, or not later than two months after receipt of ~~such~~ the proof.

~~12-~~ 10. A table showing the amounts of installments in which the policy may provide its proceeds may be payable.

~~13-~~ 11. A title on the face and on the back of the policy correctly describing the same.

Any of the foregoing provisions or portions thereof, relating to premiums not applicable to single premium policies, shall not be incorporated to the extent to which they are inapplicable in a single premium policy.

SECTION 14. AMENDMENT. Section 26-11.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-11.1-05. EXCEPTIONS. Except for the provisions entitled "loans", "options on surrender or lapse", "continuance of insurance on lapse", "reinstatement", "options at maturity", and the "grace" paragraph of the provision entitled "payment of premiums" of sections 26-03-26 through 26-03-31, and except for subsections 2, 7, 8, 9, and 10, and ~~12~~ of section 26-03-35, and except as otherwise provided in this chapter, all pertinent provisions of title 26 shall apply to separate accounts and contracts relating thereto. Any individual variable life insurance contract, delivered or issued for delivery in this state, shall contain grace, reinstatement, and nonforfeiture provisions appropriate to such a contract. The

reserve liability for variable contracts shall be established in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

SECTION 15. AMENDMENT. Section 27-10-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-10-12. ACCUSED DISCHARGED FROM ARREST ON DELIVERING UNDERTAKING - NATURE OF UNDERTAKING. When a person accused of a ~~criminal--or~~ civil contempt is arrested upon a warrant of attachment upon which the amount of the undertaking to be given for his appearance is endorsed, the accused must be discharged from arrest upon his executing and delivering to the sheriff, at any time before the return day of the warrant, an undertaking to the state in the sum specified in the endorsement with sufficient surety to the effect that he will appear on the return of ~~such~~ the attachment and abide the direction of the court. If required by the sheriff, ~~such~~ the surety must justify as provided in chapter ~~32-08~~ 32-08.1 of the title Judicial Remedies.

SECTION 16. AMENDMENT. Section 29-02-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-02-24. WHEN OFFICERS MAY DISPERSE ASSEMBLY. If the persons assembled and commanded to disperse do not immediately disperse, any magistrate or law enforcement officer mentioned in section 12-19-17 may command the aid of a sufficient number of persons and may proceed in such manner as in his judgment is necessary to disperse the assembly and arrest the offenders.

SECTION 17. AMENDMENT. Section 29-06-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-06-25. PROCEDURE AGAINST PERSON ARRESTED WITHOUT WARRANT. When an arrest is made by a peace officer or a private person without a warrant, the person arrested without unnecessary delay must be taken:

1. Before the nearest or most accessible magistrate in the county where the arrest is made; or
2. If there is no magistrate in said county qualified to act, then before the nearest or most accessible magistrate authorized to act for the county where the arrest is made.

A complaint stating the charge against the person arrested must be made before such magistrate, as is provided in ~~section 29-05-04~~ rule 5 of the North Dakota Rules of Criminal Procedure.

SECTION 18. AMENDMENT. Subsection 1 of section 30.1-21-03 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

30.1-21-03. (3-1003) CLOSING ESTATES - BY SWORN STATEMENT OF PERSONAL REPRESENTATIVE.

1. Unless prohibited by order of the court and except for estates being administered in supervised administration proceedings, a personal representative may close an estate by filing with the court a verified statement stating that he, or a prior personal representative whom he has succeeded, has or have:
 - a. Fully administered the estate of the decedent by making payment, settlement, or other disposition of all claims which were presented, expenses of administration, and estate, inheritance and other death taxes, except as specified in the statement, and that the assets of the estate have been distributed to the persons entitled. If any claims remain undischarged, the statement shall state whether the personal representative has distributed the estate subject to possible liability with the agreement of the distributees or it shall state in detail other arrangements which have been made to accommodate outstanding liabilities.
 - b. Sent a copy thereof to all distributees of the estate and to all creditors or other claimants of whom he is aware whose claims are neither paid nor barred and has furnished a full account in writing of his administration to the distributees whose interests are affected thereby.

If the personal representative has published notice to creditors as provided by section 30.1-19-01, he may not file the verified statements until ~~six~~ three months after the date of the first publication.

* SECTION 19. AMENDMENT. Section 33-01-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

33-01-21. WHEN MONEYS COLLECTED PAYABLE BY COUNTY JUSTICE TO COUNTY TREASURER. ~~Subject to the provisions of section 33-12-23, each~~ Each county justice shall pay over to the county treasurer of his county all fines or other moneys collected or received by him ~~in~~ on behalf of the county or state and remaining in his hands in reasonable intervals of not more than thirty-five days.

** SECTION 20. AMENDMENT. Section 33-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

33-05-01. WHEN WRIT OF ATTACHMENT ISSUED. In a case mentioned in section ~~32-08-01~~ 32-08.1-01, a writ to attach the personal property of the defendant may be issued by the county justice at the time of or after issuing the summons and before answer, on receiving an affidavit by or on behalf of the plaintiff

* NOTE: Chapter 33-01 was repealed by section 51 of House Bill No. 1060, chapter 319.

** NOTE: Chapter 33-05 was repealed by section 51 of House Bill No. 1060, chapter 319, and by section 2 of House Bill No. 1064, chapter 350.

stating the same facts as are required to be stated by the affidavit specified in section ~~32-08-05~~ 32-08.1-03.

* SECTION 21. AMENDMENT. Section 33-12-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

33-12-19. WHEN ISSUE TRIED BY COURT OR JURY ~~--SIZE-OF-JURY.~~ When the defendant in a criminal action in a county justice court makes any plea other than a plea of guilty, the issue shall be tried by the court unless a jury is demanded, ~~but if either party demands a jury before the court hears any testimony, the issue must be tried by a jury of twelve persons.~~

SECTION 22. AMENDMENT. Section 35-22-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-22-12. COSTS - DISBURSEMENTS - ATTORNEY'S FEES. The person foreclosing a mortgage by advertisement shall be entitled to his costs and disbursements out of the proceeds of the sale ~~and also shall be entitled to the attorney's fees as provided by section 35-22-13.~~

SECTION 23. AMENDMENT. Subsection 3 of section 37-01-40 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Indian wars. Since the Indian wars were fought intermittently over a period of years, the determination as to whether a person shall be considered as having rendered military service during these wars will be carefully considered by the ~~state veterans' affairs~~ commission administrative committee on veterans' affairs. January 1, 1817, through December 31, 1898, is considered Indian war period.

** SECTION 24. AMENDMENT. Section 39-01-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-01-08. STATE AND POLITICAL SUBDIVISIONS AUTHORIZED TO CARRY INSURANCE ON VEHICLES - WAIVER OF IMMUNITY TO EXTENT ONLY OF INSURANCE PURCHASED.

1. The state of North Dakota or any department, agency, or bureau, as well as any county, city, or other political subdivision including townships, school and park districts using or operating motor vehicles and aircrafts, are hereby authorized to carry insurance for their own protection and for the protection of any employees from claims for loss or damage arising out of or by reason of the use or operation of ~~such~~ the motor vehicle or aircraft, whether ~~such~~ the vehicle or aircraft at the time the loss or damage in question occurred was being operated in a governmental undertaking or otherwise. If a premium savings will result therefrom, ~~such~~ the policies of

* NOTE: Chapter 33-12 was repealed by section 51 of House Bill No. 1060, chapter 319.

** NOTE: Subsection 3 of section 39-01-08 was also amended by section 9 of Senate Bill No. 2251, chapter 131.

insurance may be taken out for more than one year, but in no event beyond a period of five years.

2. If insurance is purchased pursuant to subsection 1, then the purchaser waives its immunity to suit only to the extent of allowing a determination of liability to the extent of the waiver of the immunity against liability described in subsection 3.
3. If insurance is purchased pursuant to subsection 1, then the purchaser waives its immunity against liability only to the types of its insurance coverage and only to the extent of the policy limits of ~~such~~ the coverage.
4. If any dispute exists concerning the amount or nature of the insurance coverage, the dispute shall be tried separately before the main trial determining the claims and damages of the claimant.
5. This statute confers no right for a claimant to sue the insurer directly.
6. When liability insurance is carried pursuant to this section or pursuant to section ~~40-43-07~~ 32-12.1-05, no defense in a negligence action shall be raised by the insurance carrier upon the basis of section 39-07-05.

* SECTION 25. AMENDMENT. Section 39-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-01. DEFINITIONS. In this chapter, unless the context or subject matter otherwise requires:

1. "Commercial freighting" means the carriage of things other than passengers, for hire, except that ~~such~~ the terms shall not include:
 - a. The carriage of things other than passengers within the limits of the same city;
 - b. The carriage by local dray lines of baggage or goods to or from a railroad station from or to places in ~~such~~ the city or in the immediate vicinity thereof, in this state, and not to exceed two miles [1.61 kilometers] from the corporate limits of said city; or
 - c. Hauling done by farmers for their neighbors in transporting agricultural products to or from market.
2. "Commercial passenger transportation" means the carriage of passengers for hire, except that ~~such~~ the term shall not include:

* NOTE: Section 39-04-01 was also amended by section 7 of Senate Bill No. 2069, chapter 378.

- a. The carriage of passengers within the limits of a city; or
 - b. The carriage by local bus lines of passengers to or from a railroad station from or to places within any city or within two miles [1.61 kilometers] of the limits thereof.
3. "Dealer" means every person, partnership, or corporation engaged in the business of buying, selling, or exchanging motor vehicles, or who advertises, or holds himself out to the public as engaged in the buying, selling, or exchanging of motor vehicles, or who engages in the buying of motor vehicles for resale. Any person, partnership, corporation, or association doing business in several cities or in several locations within a city shall be considered a separate dealer in each such location.
 4. "Essential parts" includes all integral parts and body parts, the removal, alteration, or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle.
 5. "Foreign vehicle" means every motor vehicle which shall be brought into this state otherwise than in the ordinary course of business by or through a manufacturer or dealer and which has not been registered in this state.
 6. "Gross weight" means the total of the unloaded weight of the vehicle, or combination of vehicles, and the load carried thereon.
 7. "Reconstructed vehicle" means any vehicle of a type required to be registered hereunder materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used. A reconstructed vehicle may be registered upon the payment of the same fees for the calendar year that are paid for a motor vehicle of comparable make and year as the reconstructed vehicle, excluding ~~penalties as provided in section 39-04-16~~ and nonuse fees as provided in section 39-04-18.
 8. "Specially constructed vehicle" means any vehicle which shall not have been constructed originally under the distinct name, make, model, or type, by a generally recognized manufacturer of vehicles.

* SECTION 26. AMENDMENT. Section 39-04-15.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-15.1. INSTALLMENT REGISTRATION OF VEHICLES LICENSED FOR A GROSS WEIGHT IN EXCESS OF THIRTY-SIX THOUSAND POUNDS [16329.33

* NOTE: Section 39-04-15.1 was also amended by section 15 of Senate Bill No. 2069, chapter 378.

KILOGRAMS] - DELINQUENCIES - PENALTY. All motor vehicles registered for a gross weight in excess of thirty-six thousand pounds [16329.33 kilograms] may be registered by the payment of registration fees in two installments, each equal to one-half of the annual fee. ~~Such~~ The installments shall be due on January first and July first of each year and delinquent on February first, and August first, respectively. A penalty, ~~---in-addition-to-that-provided-in-section 39-04-16,~~ of twenty-five dollars shall be added to any installment delinquent under the provisions of this section. When any vehicle is initially registered between installment dates hereunder, the registrar may prorate the fee in equal installments consisting of the date of ~~such~~ the initial registration and any unexpired installment dates. The license plates shall be issued upon the payment of the first installment, plus five dollars, but upon default in the payment of any installment, the registrar shall cause the license plates to be removed from the vehicle involved and shall not reissue them until the installment plus penalties have been paid.

SECTION 27. AMENDMENT. Paragraph 21 of subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- | | | |
|------|--|----------|
| (21) | Knowingly drove
with defective
brakes in
violation of
sections 39-21-32,
39-21-33, or
39-21-34, or
equivalent ordinances | 2 points |
|------|--|----------|

SECTION 28. AMENDMENT. Section 39-16.1-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-16.1-07. REVOCATION OF LICENSE FOR REASONS OTHER THAN PROVISIONS OF THIS CHAPTER.

1. Whenever the commissioner under any other law of this state, except subsections 1 through 6 5 of section 39-06-40 and section 39-06-40.1, revokes the license of any person, ~~such~~ the license shall remain revoked and shall not at any time thereafter be renewed nor shall any license be thereafter issued to such person, unless and until he shall give and thereafter maintain proof of financial responsibility.
2. If a person by final order or judgment is convicted of or forfeits any bail or collateral deposited to secure an appearance for trial for: any offense requiring the revocation of license, driving while under the influence in violation of section 39-08-01 or equivalent ordinance, or operating a motor vehicle upon the highway while his license or privilege to drive is under suspension,

revocation, or cancellation, ~~such the~~ license or driving privilege shall remain suspended, revoked, or canceled and shall not at any time thereafter be renewed, nor shall any license be thereafter issued or returned to ~~such the~~ person, unless and until he shall give and thereafter maintain proof of financial responsibility.

3. Whenever the commissioner revokes a nonresident's operating privilege by reason of a conviction or forfeiture of bail, ~~such the~~ privilege shall remain so revoked unless ~~such the~~ person shall have previously given or shall immediately give and thereafter maintain proof of financial responsibility.

SECTION 29. AMENDMENT. Section 40-01-12 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-01-12. CLAIMS AND ACCOUNTS AGAINST MUNICIPALITIES AUDITED. No account or claim against a municipality to be paid from any fund, including a municipal utilities fund, shall be allowed by the governing body thereof until a full itemized statement in writing has been filed with the governing body or unless otherwise authorized by the governing body pursuant to contract or other action. The governing body, in its discretion, may require the filing of any additional information which it may deem necessary to the proper understanding and audit of any claim or account and it may require the filing of a sworn statement in such form as it may prescribe. Every account or claim which is allowed by the governing body shall be shown in the minutes of the proceedings of the governing body except that wages and salaries of persons employed by the city may be consolidated and allowed in one order as provided by subsection 15 of section 40-17-06 40-16-03 and reference made in the proceedings of the governing body to the payroll record certified to the city auditor.

* SECTION 30. AMENDMENT. Section 40-18-19 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-19. APPEALS FROM DETERMINATIONS OF MUNICIPAL JUDGE. An appeal may be taken to the district court or to the county court of increased jurisdiction as provided for in section 27-08-21 from a judgment of conviction in a municipal judge's court in the same form and manner as appeals are taken and perfected from a judgment of conviction of a defendant in county justice court, and in accordance with sections 33-12-34, ~~33-12-35, and 33-12-39,~~ and rule 37 of the North Dakota Rules of Criminal Procedure, and shall be tried in the district court or county court of increased jurisdiction in accordance with ~~sections 33-12-40 and section 33-12-41,~~ and rule 37 of the North Dakota Rules of Criminal Procedure, and bail shall be taken in accordance with ~~sections 33-12-36 and 33-12-37~~ rule 46 of the North Dakota Rules of Criminal Procedure, and witnesses may be placed under bond as provided for in ~~section 33-12-38~~ rule 46 of the

* NOTE: Section 40-18-19 was also amended by section 99 of House Bill No. 1061, chapter 320, and by section 1 of Senate Bill No. 2423, chapter 414.

North Dakota Rules of Criminal Procedure. On all appeals from a determination in a municipal judge's court the court shall take judicial notice of all of the ordinances of the city. No filing fee shall be required for the filing of an appeal from a judgment of conviction for the violation of a municipal ordinance.

SECTION 31. AMENDMENT. Section 40-22-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-05. CONDEMNATION OF LAND AND RIGHTS OF WAY FOR SPECIAL IMPROVEMENTS - TAKING OF POSSESSION - TRIAL - APPEAL - VACATION OF JUDGMENT. Whenever property required to make any improvement authorized by this chapter is to be taken by condemnation proceedings, the court, upon request by resolution of the governing body of the municipality making such improvement, shall call a special term of court for the trial of ~~such~~ the proceedings and may summon a jury for ~~such~~ the trial whenever necessary. ~~Such~~ The proceedings shall be instituted and prosecuted in accordance with the provisions of chapter 32-15, except that when the interest sought to be acquired is a right of way for the opening, laying out, widening, or enlargement of any street, highway, avenue, boulevard, or alley in the municipality, or for the laying of any main, pipe, ditch, canal, aqueduct or flume for conducting water, storm water, or sewage, whether within or without the municipality, the municipality may make an offer to purchase ~~such~~ the right of way and may deposit the amount of ~~such~~ the offer with the clerk of the district court of the county wherein the right of way is located, and may thereupon take possession of ~~such~~ the right of way forthwith. ~~Such~~ The offer shall be made by resolution of the governing body of the municipality, a copy of which shall be attached to the complaint filed with said clerk of court in accordance with section 32-15-18. The clerk shall immediately notify the owner or owners of the land wherein the right of way is located of ~~such~~ the deposit, by causing a notice to be appended to the summons when served and published in said proceedings as provided in ~~sections 32-15-08 to 32-15-11~~ the North Dakota Rules of Civil Procedure, stating the amount deposited or agreed in ~~such~~ the resolution to be deposited. The owner may thereupon appeal to the court by filing an answer to the complaint in the manner provided in ~~chapter 32-15~~ the North Dakota Rules of Civil Procedure, and may have a jury trial, unless a jury be waived, to determine the damages. However, upon due proof of the service of said notice and summons and upon deposit of the aggregate sum agreed in said resolution, the court may without further notice make and enter an order determining the municipality to be entitled to take immediate possession of the right of way. In the event that under laws of the United States proceedings for the acquisition of any right of way are required to be instituted in or removed to a federal court, ~~such~~ the proceedings may be taken in ~~such~~ that court in the same manner and with the same effect as ~~herein~~ provided in this section; and the clerk of the district court of the county ~~wherein~~ in which the right of way is located shall perform any and all of the duties ~~herein~~ set forth in this section, if ~~and to the extent that~~ he is directed so to do so by ~~such~~ the federal court. ~~Such~~ The proceedings shall be

determined as speedily as practicable. An appeal from a judgment in such the condemnation proceedings shall be taken within sixty days after the entry of the judgment, and such the appeal shall be given preference by the supreme court over all other civil cases except election contests. No final judgment in such the condemnation proceedings awarding damages to property used by a municipality for street, sewer, or other purposes shall be vacated or set aside if the municipality shall pay to the defendant, or shall pay into court for the defendant, in cash, the amount so awarded. The municipality may levy special assessments to pay all or any part of such the judgment and at the time of the next annual tax levy, may levy a general tax for the payment of such the part of the judgment as is not to be paid by special assessment. For the purpose of providing funds for the payment of such the judgment, or for the deposit of the amount offered for purchase of a right of way as ~~hereinabove~~ provided above, the municipality may issue warrants on the fund of the improvement district as provided in section 40-24-19, in anticipation of the levy and collection of special assessments and of any taxes or revenues to be appropriated to such the fund in accordance with the provisions of this title. Such The warrants may be issued upon the commencement of ~~said the condemnation~~ proceedings or at any time thereafter. Upon the failure of the municipality to make payment in accordance with this section, the judgment in the condemnation proceedings may be vacated.

SECTION 32. AMENDMENT. Section 40-33.1-04 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-33.1-04. FINANCING PROJECTS AND FACILITIES. An authority may provide funds for its purposes by using the following methods or any combination thereof:

1. Charging a fee for the sale or use of steam produced by such the authority.
2. Issuing notes of an authority as authorized by this chapter.
3. In cooperation with cities whereby cities may agree to assist in financing projects and facilities through the issuance of municipal bonds or other obligations, budgeting of current funds, the levy of taxes or special assessments, or by any combination of these means pursuant to or in accordance with the provisions of chapters 21-03, 40-22 to 40-27, 40-35, 40-40, ~~40-41~~, and 40-57, and all other applicable laws now in force or hereafter enacted.
4. Making a special assessment against any property directly benefited by the steam produced by the authority, as provided in section 40-33.1-15.

SECTION 33. AMENDMENT. Section 40-34-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-34-07. FIRST MORTGAGE BONDS ARE NEGOTIABLE. All first mortgage bonds issued under the provisions of this chapter may be negotiated in the same manner and with the same legal effect as negotiable instruments under title 41, ~~Negotiable---Instruments~~ Uniform Commercial Code.

SECTION 34. AMENDMENT. Section 40-35-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-35-10. BONDS AND RECEIPTS OR CERTIFICATES ISSUED PENDING PREPARATION OF BONDS - NEGOTIABILITY. Pending the preparation of the definitive bonds, interim receipts or certificates, in ~~such the~~ such the form and with ~~such the~~ such the provisions as the governing body may determine, may be issued to the purchaser or purchasers of bonds sold pursuant to this chapter. Said bonds and interim receipts or certificates shall be negotiable within the meaning of and for all the purposes specified in title 41, ~~Negotiable--Instruments~~ Uniform Commercial Code.

SECTION 35. AMENDMENT. Section 40-42-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-42-04. PROOF ON TRIAL TO CONFORM TO CLAIM FILED WITH MUNICIPALITY. Upon the trial of an action for the recovery of damages by reason of an injury ~~of the kind described in section 40-42-04~~ from the defective, unsafe, dangerous, or obstructed condition of any street, crosswalk, sidewalk, culvert, or bridge, the claimant shall not be permitted to prove any time, place, cause, manner, or extent of the injury complained of differing from that specified in the claim filed with the municipality, nor to recover damages in excess of the amount demanded in such claim.

SECTION 36. AMENDMENT. Section 40-57-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-57-11. BONDS AND RECEIPTS OR CERTIFICATES ISSUED PENDING PREPARATION OF BONDS - NEGOTIABILITY. Pending the preparation of the definitive bonds, interim certificates or receipts, in ~~such the~~ such the form and with ~~such the~~ such the provisions as the governing body may determine, may be issued to the purchaser or purchasers of bonds sold pursuant to this chapter. ~~Said The~~ bonds and interim receipts or certificates shall be negotiable within the meaning of and for all purposes specified in title 41, ~~Negotiable--Instruments~~ Uniform Commercial Code.

SECTION 37. AMENDMENT. Subsection 2 of section 40-60-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. To provide funds for this purpose by the budgeting of current funds, the levy of taxes or special assessments, or the issuance of bonds or other obligations, or by any combination of these means, pursuant to and in accordance with the provisions of the North Dakota Century Code,

chapters 21-03, 40-22 to 40-27, 40-35, 40-40, ~~40-41~~ and 40-57, and of all other applicable laws now in force or hereafter enacted.

SECTION 38. AMENDMENT. Subsection 3 of section 40-61-03.1 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. In cooperation with cities whereby cities may agree to assist in financing projects and facilities through the issuance of municipal bonds or other obligations, budgeting of current funds, the levy of taxes or special assessments, or by any combination of these means pursuant to or in accordance with the provisions of North Dakota Century Code, chapters 21-03, 40-22 to 40-27, 40-35, 40-40, ~~40-41~~, and 40-57 and all other applicable laws now in force or hereafter enacted.

SECTION 39. AMENDMENT. Section 41-09-41 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

41-09-41. (9-402) FORMAL REQUISITES OF FINANCING STATEMENT - AMENDMENTS - MORTGAGE AS FINANCING STATEMENT.

1. A financing statement is sufficient if it gives the names of the debtor and the secured party, is signed by the debtor, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor, and contains a statement indicating the types, or describing the items, of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers crops growing or to be grown, the statement must also contain a description of the real estate concerned ~~or when the financing statement is filed as a fixture filing (section 41-09-34) and the collateral is goods which are or are to become fixtures, the statement must also comply with subsection 6.~~ When the financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection 5 of section 41-09-03, or when the financing statement is filed as a fixture filing (section 41-09-34), and the collateral is goods which are or are to become fixtures, the statement must also comply with subsection 5. A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor. A carbon, photographic, or other reproduction of a security agreement or a financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed in this state.

- 2. A financing statement which otherwise complies with subsection 1 is sufficient when it is signed by the secured party instead of the debtor if it is filed to perfect a security interest in:
 - a. Collateral already subject to a security interest in another jurisdiction when it is brought into this state, or when the debtor's location is changed to this state. ~~Such a~~ The financing statement must state that the collateral was brought into this state or that the debtor's location was changed to this state under such circumstances;
 - b. Proceeds under section 41-09-27 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral;
 - c. Collateral as to which the filing has lapsed; or
 - d. Collateral acquired after a change of name, identity, or corporate structure of the debtor (subsection 7).
- 3. A form substantially as follows is sufficient to comply with subsection 1:

Name of debtor (or assignor) _____
 Address _____
 Name of secured party (or assignee) _____
 Address _____

- a. This financing statement covers the following types (or items) of property:
 (Describe) _____
- b. (If collateral is crops) The above described crops are growing or are to be grown on:
 (Describe real estate) _____
- c. (If applicable) The above goods are to become fixtures on:
 (Describe real estate) _____
 and this financing statement is to be filed for record in the real estate records. (If the debtor does not have an interest of record.) The name of a record owner is _____.
- d. (If products of collateral are claimed)

Products of the collateral are also covered.
 (use) _____
 whichever) Signature of Debtor (or Assignor)
 is) _____
 applicable)) Signature of Secured Party (or _____

Assignor)

4. A financing statement may be amended by filing a writing signed by both the debtor and the secured party. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In this chapter, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments.
5. A financing statement covering timber to be cut or covering minerals or the like (including oil and gas) or accounts subject to subsection 5 of section 41-09-03, or a financing statement filed as a fixture filing (section 41-09-34) where the debtor is not a transmitting utility, must show that it covers this type of collateral, must recite that it is to be filed for record in the real estate records, and the financing statement must contain a description of the real estate sufficient if it were contained in a mortgage of the real estate to give constructive notice of the mortgage under the law of this state. If the debtor does not have an interest of record in the real estate, the financing statement must show the name of a record owner.
6. A mortgage is effective as a financing statement filed as a fixture filing from the date of its recording if: (a) The goods are described in the mortgage by item or type; (b) The goods are or are to become fixtures related to the real estate described in the mortgage; (c) The mortgage complies with the requirements for a financing statement in this section other than a recital that it is to be filed in the real estate records; and (d) The mortgage is duly recorded. No fee with reference to the financing statement is required other than the regular recording and satisfaction fees with respect to the mortgage.
7. A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership, or corporate name of the debtor, whether or not it adds other trade names or the names of partners. Where the debtor so changes his name, or in the case of an organization its name, identity, or corporate structure that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the change, unless a new appropriate financing statement is filed before the expiration of that time. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

8. A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.
9. A financing statement covering crops growing or to be grown ~~or a financing statement filed as a fixture filing (section 41-09-34)~~ must show that it covers crops or fixtures and where the debtor is not a transmitting utility the financing statement must contain a description of the real estate sufficient if it were contained in a mortgage of the real estate to give constructive notice of the mortgage under the law of this state.

~~10. If (a) goods are or are to become fixtures related to the real estate described in a mortgage of the real estate, (b) the goods are described in the mortgage by item or type and the mortgage provides for a security interest in the goods, (c) the mortgage complies with the requirements for a financing statement in this section, and (d) the mortgage is duly recorded, the mortgage is effective from the date of recording as a financing statement filed as a fixture. No fee with reference to the financing statement is required other than the regular recording and satisfaction fees with respect to the mortgage.~~

SECTION 40. AMENDMENT. Section 43-11-20.4 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-20.4. SOLICITOR'S PERMIT REQUIRED. Schools of hairdressing and cosmetology licensed under the provisions of this chapter shall be exempt from the license requirement of chapter ~~15-50~~ 15-20.4, but all persons who solicit business for a school of hairdressing and cosmetology, or who sell any course or courses of instruction, shall secure a solicitor's permit and bond as required by chapter ~~15-50~~ 15-20.4.

SECTION 41. AMENDMENT. Section 49-16-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-16-05. CONTRACTS EXEMPTING RAILROAD FROM LIABILITY VOID. Any contract, rule, regulation, or device whatsoever the purpose or intent of which shall be to enable any railroad corporation to exempt itself from any liability created by ~~section~~ sections 49-16-02 through ~~section~~ 49-16-10, 49-16-03, 49-16-04, 49-16-05, and 49-16-08 to that extent shall be void. In any action brought against ~~such~~ the railroad corporation, under or by virtue of any of the provisions of this chapter, ~~such~~ the corporation may set off therein any sum it has contributed or paid to any insurance relief benefit or indemnity that may have been paid to the injured employee or to the person entitled thereto on account of the injury or death for which said action was brought.

* SECTION 42. AMENDMENT. Subsection 1 of section 51-13-03 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. A retail seller may contract for in a retail installment contract and charge, receive, and collect the ~~credit service~~ finance charge computed on the principal balance of the contract or obligation from the date thereof until paid, at not exceeding eighteen percent simple interest per annum upon the unpaid balance of the contract.

SECTION 43. AMENDMENT. Section 51-13-07 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-13-07. PENALTIES. Any person who shall willfully violate any provisions of this chapter shall be guilty of a class A misdemeanor. A willful violation of sections 51-13-02 or 51-13-03 by any person shall bar his recovery of any ~~credit--service~~ finance charge, delinquency or collection charge, or refinancing charge on the retail installment contract involved.

SECTION 44. AMENDMENT. Subsection 3 of section 54-01.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Any displaced person eligible for payments under subsection 2 1 of this section, who is displaced from his place of business or from his farm operation and who elects to accept the payment authorized by this subsection in lieu of the payment authorized by subsection 1 of this section, may receive a fixed payment in an amount equal to the average annual net earnings of the business or farm operation, except that such the payment shall not be less than two thousand five hundred dollars, nor more than ten thousand dollars. In the case of a business, no payment shall be made under this subsection unless the agency is satisfied that the business:
 - a. Cannot be relocated without a substantial loss of its existing patronage; and
 - b. Is not a part of a commercial enterprise having at least one other establishment not being acquired by the agency, which is engaged in the same or similar business.

For purposes of this subsection, the term "average annual net earnings" means one-half of any net earnings of the business or farm operation before federal and state income taxes during the two taxable years immediately preceding the taxable year in which the business or farm operation moves from the real property acquired for such the project, or during such other period as the agency

* NOTE: Section 51-13-03 was also amended by section 1 of Senate Bill No. 2308, chapter 498.

determines to be more equitable for establishing ~~such~~ the earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period.

* SECTION 45. AMENDMENT. Section 54-07-01.2 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-07-01.2. GOVERNOR TO HAVE POWER TO APPOINT MAJORITY OF MEMBERS OF CERTAIN BOARDS AND COMMISSIONS - LIMITATIONS.

1. Notwithstanding the provisions of sections 2-05-01, 4-18.1-04, 4-27-04, 6-01-03, 6-09.1-02, 12-55-01, 12-59-01, 15-21-17, 15-38-17, 15-39.1-05, 15-65-02, 20.1-02-23, 23-01-02, 23-25-02, 36-01-01, 37-18.1-01, 50-06-02, 50-06-03.1, 50-26-01, 51-10-13, ~~54-03-20-27~~, 54-34-03, ~~54-42-01~~, 54-54-02, 55-01-01, 55-06-01, 61-02-04, 61-28-03, and 65-02-01, all members of the following boards and commissions shall, subject to the limitations of this section, be considered to have resigned from such boards and commissions effective January first of the first year of each four-year term of the governor:
 - a. The aeronautics commission.
 - b. The milk stabilization board.
 - c. The dairy products promotion commission.
 - d. The state banking board.
 - e. The state credit union board.
 - f. The advisory board of directors to the Bank of North Dakota.
 - g. The board of pardons.
 - h. The state parole board.
 - i. The state board of public school education.
 - j. The teachers' professional practices commission.
 - k. The board of trustees for the teachers' fund for retirement.
 - l. The educational broadcasting council.
 - m. The state game and fish advisory board.
 - n. The health council.

* NOTE: Subsection 1 of section 54-07-01.2 was also amended by section 10 of House Bill No. 1443, chapter 528, and by section 29 of House Bill No. 1418, chapter 486.

- o. The air pollution control advisory council.
 - p. The livestock sanitary board.
 - q. The administrative committee on veterans' affairs.
 - r. The social service board of North Dakota.
 - s. The governor's council on human resources.
 - t. The North Dakota trade commission.
 - u. ~~The legislative compensation commission.~~
 - v. The business and industrial development commission.
 - w. ~~The merit system council.~~
 - x. v. The North Dakota council on the arts.
 - y. w. The state historical board.
 - z. x. The Yellowstone-Missouri-Fort Union commission.
 - aa. y. The state water conservation commission.
 - bb. z. The state water pollution control board.
 - cc. aa. The workmen's compensation bureau.
2. The governor shall have the option of reappointing any member to any board or commission to complete the term to which he was appointed, or the governor may appoint a simple majority of any board or commission to complete the terms of those resigned members who do not receive reappointments. In order to assure continuity, the governor shall reappoint for the completion of their original terms no fewer than one less than a simple majority of the former members of each board or commission.
 3. If the governor has not acknowledged in writing the resignation of any members of any board or commission prior to July first of the first year of the governor's term, such the board or commission member shall be considered to have been reappointed to complete the term to which he was originally appointed. All members of boards and commissions shall continue to serve until such the time as they are notified of the acceptance of their resignation by the governor, and in all cases the members of boards and commissions shall continue to serve until their successors have been named and qualified.

4. In those instances where nominations for the filling of vacancies on boards and commissions are submitted to the governor pursuant to state law, the governor shall notify such persons and organizations of his acceptance of the resignation of any board or commission member. Such persons and organizations shall furnish the governor with the number of required nominations to fill ~~such~~ the vacancies within sixty days after ~~such~~ the notice or the governor may, in his discretion, nominate and appoint such members as are otherwise qualified.
5. The provisions of this section shall not apply to those constitutional officers who serve on boards and commissions, except insofar as a governor may count such constitutional officers among those he reappoints in order to conform to the continuity requirements of this section.
6. All vacancies created by resignation after July first of the first year of each term of a governor shall be filled as provided by law. If any person refuses an appointment, the governor shall fill such position as otherwise provided by law.

SECTION 46. AMENDMENT. Section 54-49.1-02 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-49.1-02. NATURAL RESOURCES COUNCIL CREATED - MEMBERSHIP - OFFICERS - EXECUTIVE DIRECTOR. There is hereby established a North Dakota natural resources council. The council shall be composed of the state engineer, the game and fish commissioner, the executive secretary of the state soil conservation committee, the reclamation director of the public service commission, the director of the state parks and recreation department, the state forester, state geologist, ~~the director of the state planning division~~ federal aid coordinator or a representative appointed by the coordinator from the planning division of the coordinator's office, and the chief of the environmental health and engineering services division of the state department of health.

The governor shall appoint a chairman and determine his salary within the limits of legislative appropriations made to the office of the governor. The chairman may appoint whatever employees are necessary to carry out the provisions of this chapter, within the limitations of legislative appropriations made to the office of the governor.

SECTION 47. AMENDMENT. Section 55-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-01-01. STATE HISTORICAL BOARD. There shall be a state historical society of North Dakota which will be under the supervision and control of the state historical board. The board shall consist of nine members who shall be appointed by the governor

with the consent of the senate. Each member appointed to such the board must be a citizen and resident of the state of North Dakota. Interim appointments may be made by the governor if the senate is not in session and such interim appointees may hold office until the senate has had an opportunity to confirm or reject such appointments. Appointments shall be for a term of three years from the first day of July to the thirtieth day of June of the third year or until a successor has been appointed and qualified except that the first appointments under this section shall be staggered so that the term of three members shall expire each year. Vacancies occurring other than by the expiration of an appointive term shall be filled by appointment for the remainder of the term only in the same manner as regular appointments. The board of directors shall select from its membership a president, vice president, and secretary to serve as officers of the board. The secretary of state, state engineer, state highway commissioner, state forester, state game and fish commissioner, director of the state library ~~commission~~, and state treasurer shall be ex officio members of the board and shall take care that the interests of the state are protected.

* SECTION 48. AMENDMENT. Section 57-02-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-20. EXEMPTION OF FARM MACHINERY FOR ONE YEAR. The part of the value of farm machinery on which sales or use tax is paid, to be used by the buyer in his farming operations or rented by the buyer for farming purposes, shall be exempt to the buyer from the personal property tax which would be assessed and levied against it in the first year after its purchase were this section not in force. No exemption shall be allowed, however, unless the buyer exhibits to the assessor satisfactory written proof, on a form furnished by the state tax commissioner to retail sales or use tax permit holders only, that the North Dakota sales or use tax has been paid on such the farm machinery. A duplicate copy of such the form shall be attached to the assessment sheet which is filed with the county auditor. In addition, for each unit of farm machinery with a value exceeding three hundred dollars, if any buyer shall fail or refuse to exhibit such proof of the payment of such the sales or use tax, the assessor shall report such the fact, together with a description of the farm machinery involved to the tax commissioner on forms to be prescribed by the commissioner. The commissioner shall promptly proceed to determine the amount of any sales or use tax due with respect to the sale or purchase of such the farm machinery and shall have available any of the methods provided in chapter 57-39* 57-39.2 or 57-40* 57-40.2 to secure collection of the amount due, including the authority to collect from the consumer or user any sales tax due; provided that any assessment made by the assessor on such the farm machinery may be abated, and the personal property tax refunded if paid, pursuant to the provisions of chapter 57-23 if the machinery was assessed because sales or use tax was not paid but was thereafter collected from the consumer or user by the retailer or tax commissioner. Any dealer in farm machinery may not claim the exemptions provided for in this section even though farm machinery

* NOTE: Section 57-02-20 was repealed by section 4 of Senate Bill No. 2144, chapter 581.

owned by him is used in farming operations, but this restriction shall not prevent any dealer or person from claiming the exemption as provided in this section if ~~such~~ the farm machinery is rented by him in the course of a bona fide rental business where fair rental value is charged.

SECTION 49. AMENDMENT. Section 57-20-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-20-01. REAL AND PERSONAL PROPERTY TAXES - WHEN DUE AND DELINQUENT - PENALTIES. All real and personal property taxes, ~~and hail insurance taxes,~~* and yearly installments of special assessment taxes shall become due on the first day of January following the year for which ~~such~~ the taxes were levied. The first installment of real estate taxes, all personal property taxes, ~~and hail insurance taxes,~~ and yearly installments of special taxes shall become delinquent on the first day of March following and, if not paid on or before said date, shall be subject to a penalty of two percent, and on May first following an additional penalty of two percent, and on July first following an additional two percent, and an additional penalty of two percent on October fifteenth following. From and after January first of the year following the year in which the taxes become due and payable, simple interest at the rate of seven percent per annum upon the principal of the unpaid taxes on personal property shall be charged until ~~such~~ the taxes and penalties are paid, with ~~such~~ the interest charges to be prorated to the nearest full month for a fractional year of delinquency. The second installment of real estate taxes shall become delinquent on October fifteenth, and, if not paid on or before that date shall become subject to a penalty of two percent.

SECTION 50. AMENDMENT. Section 57-20-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-20-09. DISCOUNT FOR EARLY PAYMENT OF TAX. The county treasurer shall allow a five percent discount to all taxpayers who shall pay all of the real estate taxes levied on any tract or parcel of real property in any one year in full on or before February fifteenth prior to the date of delinquency. Such discount shall apply to all general real estate taxes levied for state, county, city, township, school district, fire district, park district, and any other taxing districts, but shall not apply to personal property taxes, ~~or special assessment installments, or hail indemnity taxes.~~* Whenever the county commissioners, by resolution, determine that an emergency exists in any county by virtue of weather or other catastrophe they may extend the discount period for an additional thirty days.

SECTION 51. AMENDMENT. Section 57-20-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-20-22. DISPOSITION OF PENALTY AND INTEREST. All penalties on general taxes and interest on certificates of sale issued, or deemed to be issued to the county, shall belong to the county and

become a part of the general fund or of such other fund as the county commissioners may direct, except penalties and interest collected on the following items:

1. Taxes and parts of taxes due to townships, cities, school districts, and park districts; and
2. ~~Hail-indemnity-taxes*,--and~~
- 3- Special assessments for public improvements,

which shall be paid to the municipality levying the same, or whatever other taxing district or agency thereof is entitled to the original amount of such taxes or assessments.

SECTION 52. AMENDMENT. Section 57-22-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-22-29. CONTRACT FOR TAX COLLECTION - CONTRACTS VALIDATED.

1. In any county where for any reason personal property taxes that have been delinquent more than one year remain unpaid and uncanceled, whether put into judgment or not, the board of county commissioners may contract with the sheriff of the county, or with any elector of the state, to pay a percentage of ~~such~~ the delinquent personal property taxes, not exceeding ~~ten~~ percent of the amount collected, as compensation for collecting the same, in lieu of, or in addition to, the compensation provided by law for said sheriff. When a contract is made with any person other than the sheriff, the county commissioners may in their discretion pay any reasonable salary or expenses or a percentage of the tax collected, or combination thereof, and the contract may cover all or only certain taxing districts within the county, and contracts may be made with different collectors for different portions of the county. ~~No-collection-fee-shall-be-paid-to-the-sheriff-or--any--other--collector--for--any-moneys--deducted--from--warrants--under--the-provisions-of-section--57-22-26.~~ In the event delinquent personal property taxes are owed by a person not residing in North Dakota the county commissioners may contract with any person, firm, or corporation, to pay a reasonable percentage of ~~such~~ the delinquent taxes collected, as compensation for ~~such~~ the collection. Such contractors shall execute either a personal or corporate surety bond conditioned upon satisfactory performance of the provisions of the contract and shall be in an amount and of a type approved by the county commissioners.
2. All contracts heretofore made and entered into by county commissioners for the collection and recovery of personal property taxes are declared legal and valid notwithstanding the provisions of law to the contrary.

* SECTION 53. AMENDMENT. Section 57-24-12 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-24-12. COUNTY AUDITOR TO SELL LANDS AT PUBLIC AUCTION - TIME OF SALE. The sale of lands by the county auditor shall be conducted as follows:

1. On the second Tuesday in December of each year, the county auditor, at his office or the usual place of holding court in the same building, shall sell at public auction the lands, lots, or tracts of real property described in the tax list posted as provided in this chapter. ~~Such~~ The sale shall commence at the hour of ten a.m., but may be adjourned from day to day for a period of ten days, whenever adjournment is necessary for the disposal of the lands advertised.
2. Before any tract or parcel of land is offered for sale, the auditor shall announce the total amount of taxes, penalties, interest, and cost of advertising the same for sale, and the part representing personal property taxes, if any, extended against such land.
3. The lands, lots, or parcels of land shall be offered for sale by the county auditor, or his deputy, in the order in which they appear in the advertised list, and each tract or lot shall be offered separately and struck off to the bidder who will pay the total amount as announced by the county auditor under the provisions of subsection 2 of this section, and who will agree to accept the lowest rate of interest from the date of sale on such total amount, ~~such~~ the rate in no case to exceed six percent per annum.
4. ~~Such lands, lots, or parcels likewise shall be offered for sale and sold for the total amount of hail indemnity taxes, plus accrued penalties and cost of advertising, to the bidder who will pay such total amount and accept the lowest rate of interest on such total amount from the date of sale, such rate in no case to exceed six percent per annum.~~
- 5- If the sum bid for any tract, lot, or parcel of land is not paid before the sale closes, ~~such~~ the tract, lot, or parcel again shall be offered for sale in like manner.

SECTION 54. AMENDMENT. Section 57-28-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-28-20. DISPOSITION OF PROCEEDS OF SALES. All proceeds realized from the sales of ~~such~~ the lands, either at public or private sale, shall be apportioned as regular tax payments are apportioned, as follows:

* NOTE: Section 57-24-12 was also amended by section 1 of House Bill No. 1249, chapter 580.

1. The county treasurer shall issue a regular tax receipt in the name of the county, commencing with the earliest year for which the taxes were delinquent. Tax receipts shall be written for the original amount of the tax, without penalty and interest. If the property was sold for an amount sufficient to cover all taxes, including the year in which the county acquired tax title, tax receipts shall be written for all such years, including ~~half--insurance taxes,*--and~~ all special assessments, and the remainder, if any, shall be credited to the general fund of the county;
2. If the property is sold under a contract, the county treasurer shall issue a tax receipt for the oldest year's taxes without penalty and interest, and all subsequent payments made on ~~such~~ the contracts shall be applied in a similar manner; and
3. If the property is sold for less than the total amount of the taxes due, including the year in which a tax deed is issued, the treasurer shall write receipts beginning with the oldest year, and for as many subsequent years as the proceeds realized from ~~such~~ the sale will satisfy, and the remainder of any unpaid general taxes, or special assessments, ~~or half-indemnity taxes*~~ shall be canceled by the board of county commissioners by general resolution at the time prescribed in this chapter.

SECTION 55. AMENDMENT. Section 57-28-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-28-21. CANCELLATIONS FROM RECORD. After any real estate has been sold for cash or upon a contract for deed which has been fully performed and a deed has been issued and delivered to the purchaser thereof, the board of county commissioners, by general resolution, shall provide for the cancellation and removal from the record of all general taxes, ~~---half--indemnity--taxes,*~~ and special assessments remaining of record against the premises sold at the date of sale, except those installments of special assessments certified or to be certified to the county auditor which had not become due at the date of ~~such~~ the sale. It shall be the duty of the county auditor immediately to send a copy of the said resolution to ~~the state half-insurance department*--and~~ the state department of accounts and purchases and to notify the county treasurer of the cancellation and removal thereof.

SECTION 56. AMENDMENT. Section 57-29-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-29-01. SUSPENSION OF TAX LIENS ON STATE ACQUIRED LANDS. In any transaction where the state treasurer as trustee for the state of North Dakota, prior to the taking effect of this code, has acquired, or thereafter shall acquire, title to any tract of land pursuant to the provisions of chapter 54-30 of the title State Government, and there are listed and legally charged against ~~such~~

~~the~~ tract unpaid general property~~7--hail-indemnity,*~~ or other taxes, or tax sale certificates, or tax deeds, the holders of the liens of ~~such~~ the taxes or certificates or tax titles shall be without power to enforce or to effectuate the same. All remedies for the enforcement or enjoyment of ~~such~~ the liens or titles shall be suspended wholly and all proceedings to enforce or effectuate ~~such~~ the liens or titles subsequent to the acquisition of ~~such~~ the tract of land by the said trustee and during the time ~~such~~ the tract is owned by said trustee, shall be null and void, except that any tax title acquired previous to the acquisition of title by the said trustee may be made effectual and may be enjoyed until ~~such~~ the time as the said trustee acquires title based upon a mortgage or other conveyance previous in time to the due date of the taxes upon which ~~such~~ the tax title is based, whereupon all rights, interests, powers, privileges, and immunities theretofore owned and enjoyed under ~~such~~ the tax title shall be suspended forthwith, and the said trustee may enter into possession of ~~such~~ the tracts of land and shall have the entire control, use, and enjoyment thereof.

SECTION 57. AMENDMENT. Section 57-29-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-29-04. ABATEMENT TO PURCHASER OF TAX SALE CERTIFICATES ON STATE ACQUIRED LAND. Whenever any land sold under contract by the state of North Dakota, or mortgaged to the state of North Dakota, has been sold for taxes and a tax certificate has been issued, and the said contract for sale thereafter has been canceled, or said mortgage foreclosed, or a deed taken in lieu thereof, the holder of said unpaid tax certificate, upon due and proper application to the county, shall be entitled to an abatement and refund thereof as well as for any subsequent taxes paid on said land by ~~such~~ the certificate holder, but without interest. This section also shall apply to ~~hail-indemnity-taxes*-and~~ special assessments.

SECTION 58. AMENDMENT. Section 57-29-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-29-05. AUDITOR TO GIVE TAX INFORMATION ON LANDS IN WHICH STATE IS INTERESTED. The county auditor of each county is required and directed, on or before July first of each year, to inform the Bank of North Dakota of any delinquent and unpaid taxes upon real estate in his county owned or mortgaged to the Bank of North Dakota or assigned by it to the state treasurer as trustee for the state of North Dakota. He shall give a description of the land for which the taxes are unpaid, the amount of unpaid taxes for each year, showing ~~separately--hail-indemnity*-and~~ special assessment taxes if any, and the names of the purchaser, if the land was sold for taxes.

SECTION 59. AMENDMENT. Section 57-38-61 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-61. PROVISIONS OF CHAPTER APPLICABLE. The provisions of sections 57-38-34, 57-38-38 ~~through-57-38-40,--57-38-43*--through~~

~~57-38-47, ---and---57-38-52---through, 57-38-39, 57-38-40, 57-38-44, 57-38-45, 57-38-46, 57-38-47, 57-38-52, 57-38-53, 57-38-54, 57-38-55, 57-38-56, and 57-38-57~~ shall, insofar as consistent therewith, govern the administration of sections 57-38-58, 57-38-59, and 57-38-60. The term "employer" as used in sections 57-38-58, 57-38-59, and 57-38-60 shall also mean "taxpayer" as used in this chapter. No refund shall be made by the tax commissioner to a taxpayer unless the amount to be refunded shall exceed one dollar. In addition, the authority of the tax commissioner to prescribe rules and regulations shall include the authority to make such agreements with the United States government or any of its agencies as are necessary to provide for the deducting and withholding of tax from the wages of federal employees in the state of North Dakota.

SECTION 60. AMENDMENT. Section 57-52-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-52-11. DISTRIBUTION OF TAX. All money collected by the state tax commissioner under the provisions of this chapter shall be transferred to the state treasurer who shall credit seventy-nine percent of all ~~such~~ the money so received to the state highway department construction fund and ~~such~~ the moneys are hereby appropriated for use by the state highway department in the construction and reconstruction of highways, roads, streets, and bridges of this state under the jurisdiction of the state highway department.

From and after July 1, 1961, the balance of the money so received by the state treasurer shall be distributed as follows:

1. An amount equal to the sum credited and transferred to the county highway aid fund from the imposition and collection of such tax for the fiscal year which ended June 30, 1960, shall be credited by the state treasurer to the county highway aid fund and be distributed by the department of accounts and purchases to the counties on or before the first day of August each year in the ~~manner, and for the purpose provided for in section 57-54-15*~~ proportion which the number of motor vehicles registered in each county bears to the total number of motor vehicles registered in all of the counties of the state during the entire preceding calendar year as shown by the certificate of the registrar of motor vehicles; provided, however, that in no event, shall any county receive, under the provisions of this subsection, an amount in excess of the sum dispersed to it during the fiscal year ending June 30, 1960 ~~and 7.~~
2. All money in excess of the amount referred to in subsection 1 of this section shall be distributed as follows:
 - a. Fifty percent of ~~such~~ the excess shall be credited by the state treasurer to ~~the~~ county highway aid fund and distributed to the counties on or before the first day

of August of each year in the manner set forth in subsection 1 of this section; and

- b. The balance of ~~such the~~ excess is hereby appropriated and shall be distributed by the state treasurer on or before the first day of August of each year on a per capita basis to the incorporated cities of this state, to be used by ~~such the~~ incorporated cities solely for construction, reconstruction, repair and maintenance of public streets and highways, the allocation to be based upon the population of each incorporated city according to the last federal decennial census, or the census taken in accordance with the provisions of chapter 40-02 in case of a city incorporated subsequent to the last such federal census, and warrants shall be drawn payable to the ~~treasurers~~ auditors of such cities.

Moneys received by a county under this section shall be appropriated and applied solely by such counties in the construction, reconstruction, maintenance, and repair of the county highways, bridges, and culverts thereon, and city streets leading up to and connected with federal aid and state aid highways.

SECTION 61. AMENDMENT. Section 58-03-07 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-03-07. POWERS OF ELECTORS. The electors of each township have the power at the annual township meeting:

1. To establish one or more pounds within the township, to determine the location of the pounds, to determine the number of poundmasters and to choose the poundmasters, and to discontinue pounds which have been established.
2. To select the township officers required to be chosen.
3. To direct the institution or defense of actions in all controversies where the township is interested.
4. To direct the raising of such sums as they may deem necessary to prosecute or defend actions in which the township is interested.
5. To make all rules and regulations for the impounding of animals.
6. To make such bylaws, rules, and regulations as may be deemed necessary to carry into effect the powers granted to the township.

7. To impose penalties not exceeding ten dollars for each offense on persons offending against any rule or regulation established by the township.
8. To apply penalties when collected in such manner as they deem most conducive to the interests of the township.
9. To ratify or reject recommendations offered by the board of township supervisors for the expenditure of funds for the purpose of purchasing building sites and for the purchase, location, erection, or removal of any building or erection for township purposes. No recommendation shall be adopted except by a two-thirds vote of the electors present and voting at any annual township meeting.
10. To authorize and empower the board of township supervisors to purchase liquids, compounds, or other ingredients for the destruction of noxious weeds, and sprinklers to be used in spraying said liquids or compounds. No township shall purchase more than two such sprinklers in any one year.
11. ~~Repealed by S.L. 1949, ch. 343, § 1.~~
- ~~12.~~ To authorize aid to a district fair association within the limits provided in title 4.
- ~~13.~~ 12. To authorize the levy of township taxes for the repair and construction of roads and bridges and for other township charges and expenses within the limits prescribed in title 57.
- ~~14.~~ 13. To direct the expenditure of funds raised for the repair and construction of roads within the limits provided in title 24.
- ~~15.~~ 14. To authorize the dissolution of the township in the manner provided in this title.
- ~~16. To authorize the purchase and maintenance of dipping tanks as provided in title 36.*~~
- ~~17.~~ 15. ~~To authorize the purchase of township firefighting equipment in the manner provided in title 18, ** and to~~ To authorize the entering into a contract for fire protection as provided for in section 18-06-10.
- ~~18.~~ 16. To establish a fund for the eradication of gophers, prairie dogs, crows, and magpies.
- ~~19.~~ 17. To authorize the expenditure of township funds for weather modification activities.

- ~~20-~~ 18. To authorize the expenditure of funds to pay membership fees in county, state, and national associations of township governments. ~~Such~~ The expenditures shall not exceed the equivalent of the proceeds of one-tenth of one mill of the net taxable valuation of the township, and may be any lesser amount. This subsection shall not be construed to authorize a mill levy.
- ~~21-~~ 19. To support an airport or to support or create an airport authority and to levy a tax for airport purposes within the limitations of section 57-15-37.1.

SECTION 62. AMENDMENT. Section 58-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-06-01. GENERAL POWERS AND DUTIES OF BOARD OF TOWNSHIP SUPERVISORS. The board of township supervisors shall have the following powers and duties:

1. To manage and control the affairs of the township not committed to other township officers;
2. To draw orders on the township treasury for the disbursement of township funds;
3. To recommend to the electors the expenditure of a stated amount for the purpose of purchasing building sites, and for purchasing, erecting, locating, or removing any building, township hall, or library building for the use and benefit of the township;
4. When a city which is laid out into streets is included within the limits of the township, to cause improvements to be made in any street that may be needed as a highway if the city neglects to make the improvements;
5. To prosecute all actions upon bonds given to it or previous boards;
6. To sue for and collect all penalties and forfeitures incurred by any officer or inhabitant of the township when no other provision is made;
7. To prosecute any action for trespass committed on any public enclosure, highway, or property belonging to the township;
8. To pay all money collected by it for the township to the township treasurer;
9. To levy the annual taxes for the ensuing year as voted at the annual township meeting;

10. To grant to any person the right of way for the erection of telephone lines, electric light systems, or gas or oil pipeline systems over or upon public grounds, streets, alleys, or highways;
11. To appoint the township overseer of highways;
- ~~12. To provide funds for the extermination of bats as provided in title 36, *-Livestock*;~~
- ~~13.~~ 12. To purchase road machinery and tools;
- ~~14.~~ 13. To be and act as a board of health;
- ~~15.~~ 14. To perpetuate survey markings;
- ~~16.~~ 15. To erect and maintain guideposts on the highways and other ways within the township at such places as are necessary or convenient for the direction of travelers; and
- ~~17.~~ 16. To examine, compare, and balance the books of the township clerk and the treasurer at the annual meeting in March of each year;
- ~~18.~~ 17. To pay all, or a part of the cost of electricity used in electrically lighting the streets of cities located within the township.

SECTION 63. AMENDMENT. Section 59-05-58 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

59-05-58. APPLICATION OF OTHER LAWS. The provisions of ~~chapter~~ chapters 59-01 and ~~chapter~~ 59-04, saving the rights of other persons from prejudice by the misconduct of trustees and authorizing the court to remove and appoint trustees, the provisions of title ~~56, --Succession--and--Wills~~ 30.1, devolving express trusts upon the court on the death of trustees, and the provisions of section 59-03-17, apply equally to powers in trust and the trustees of such powers.

SECTION 64. AMENDMENT. Section 60-07-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

60-07-05. TITLE OF GOODS STORED. When a negotiable warehouse receipt has been issued, the title to goods and chattels stored with a public storage company or in a public warehouse shall pass to a purchaser or pledgee by the transfer of ~~such~~ the receipt in the manner prescribed by chapter ~~60-08~~ 41-07.

SECTION 65. AMENDMENT. Section 61-21-65 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-21-65. CONSOLIDATION OF DRAINAGE DISTRICT OR DISTRICTS INTO WATER MANAGEMENT DISTRICTS. Upon resolution of the board of county commissioners or the board of drainage commissioners, or upon the filing with the board of county commissioners of a petition containing the signatures of landowners possessing at least fifteen percent of the voting rights in one or more drainage districts, computed in accordance with section 61-21-16, the board of county commissioners shall set a date for hearing upon the establishment or expansion of a water management district to include the property contained within ~~such~~ the drainage district or districts. The board of county commissioners shall publish notice of the time, place, and purpose of ~~such~~ the hearing once each week for two consecutive weeks, in a newspaper of general circulation in the county, the second publication to be not less than ten nor more than twenty days before the date set for hearing. In the event special assessments remain outstanding upon any property within a drainage district to be affected by a hearing as provided in this section, the board of county commissioners shall notify by ordinary mail at least ten days before the date set for ~~such~~ the hearing, all landowners of record subject to ~~such~~ the special assessments in accordance with the provisions of section 61-21-66. If, at the time and place set for hearing, a majority of affected landowners computed in accordance with section 61-21-16 shall file written objections, further proceedings shall be discontinued. If such majority does not object, the board of county commissioners shall file with the state water commission ~~the a petition provided--for--in--section--61-16-02 signed by a majority of the board and all further proceedings shall thereafter be governed by chapter 61-16.~~ Upon the establishment or expansion of a water management district to include one or more drainage districts the board of county commissioners shall, by resolution, dissolve the drainage districts and transfer all property of the dissolved districts to the water management district.

* SECTION 66. REPEAL. Sections 9-11-08, 29-22-16, 29-22-36, 30-26-26, and 57-24-11 of the North Dakota Century Code are hereby repealed.

Approved March 11, 1981

* NOTE: Chapter 30-26 was repealed by section 51 of House Bill No. 1060, chapter 319.