

# PUBLIC BUILDINGS

## CHAPTER 467

SENATE BILL NO. 2137  
(Hanson)

### CONTRACTOR CONTRACT PAYMENT INTEREST RATE

AN ACT to amend and reenact sections 40-22-37 and 48-02-08 of the North Dakota Century Code, relating to contractors progress payments, retainage, and rate of interest on failure to pay.

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

SECTION 1. AMENDMENT. Section 40-22-37 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-37. CONTRACTOR SHALL BE PAID DURING PROGRESS OF WORK - RETAINAGE - FAILURE TO PAY - RATE OF INTEREST - INVESTMENT OF RETAINAGE. If the contractor to whom a contract is let properly performs the work therein designated, the governing body, at least once in each calendar month during the continuance of such contract work, shall meet, receive, and consider estimates furnished by the agent, engineer, or architect acting for the municipality or if not so furnished, then by the contractor, and shall allow such estimates in an amount of the estimated value of the labor and material furnished upon such contract, and of the material then upon the ground for use in such contract, subject to retentions as follows: ten percent of each estimate presented until such time as the project is fifty percent completed, with no further retainage on estimates during the continuance of the contract. The governing body may, however, upon completion of ninety-five percent of the contract according to the estimates, pay to the contractor ninety-five percent of the amount retained from previous estimates. Any amount retained after ninety-five percent completion of the contract shall be paid to the contractor in such amounts and at such times as are approved by the municipality, upon estimates by its agent, engineer, or architect or the contractor, with final payment of all moneys due to the contractor to be made immediately following completion and acceptance of the project. The governing body, immediately after considering and allowing any such estimate, shall certify and forward the same to the city auditor or other official having the power to draw warrants, who forthwith shall draw his warrant upon the proper fund and transmit the same promptly to the

contractor entitled thereto. In case the governing body shall fail or neglect to receive and allow such estimate or certify any estimate or final payment upon completion and acceptance or the proper officer required to issue such warrant shall fail or neglect to issue a warrant as provided herein, for a period of more than thirty days from the date of such estimate or completion date, then said estimate or final payment, together with any retainage properly payable, shall draw interest from its date at the rate ~~of six percent~~ per annum of two percentage points below the Bank of North Dakota prime interest rate as set thirty days from the date of such estimate or completion date until the issuance of a proper warrant therefor. Such interest shall be computed and added to the face of said estimate, final payment, or retainage by the officer required to issue such warrant, shall be included in the warrant when drawn, and shall be charged to the fund from which payment for the improvement is to be made. On the amounts of estimates retained, as provided herein, the governing board, authorized committee, or public body in charge of such work may invest or deposit the retained amounts in any financial association or institution in North Dakota earning interest or dividends for the benefit of the contractor. Any amounts so invested or deposited shall remain in the name of the governing board, authorized committee, or public body in charge of such work until final payment of all money due to the contractor is to be made. Further, no contractor shall use such account in any manner whatsoever until released and received by him upon completion of the contract.

SECTION 2. AMENDMENT. Section 48-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

48-02-08. ESTIMATE - FAILURE TO CERTIFY - RATE OF INTEREST. In case the board or committee mentioned in section 48-02-07 shall fail or neglect to certify any estimate allowed or final payment upon completion and acceptance, or the proper official shall neglect or fail to issue a warrant as provided in section 48-02-07, for a period of more than thirty days from the date of such estimate or completion date, then said estimate or final payment shall draw interest from its date at the rate ~~of six percent~~ per annum of two percentage points below the Bank of North Dakota prime interest rate as set thirty days from the date of such estimate or completion date until the issuance of a proper warrant therefor. Such interest shall be computed and added to the face of said estimate or final payment by the officer required to issue such warrant, shall be included in the warrant when drawn, and shall be charged to the fund upon which payment for the contract is to be made. No payment for, or on account of, any contract made under the provisions of this chapter shall be made except upon estimate of the supervising architect or superintendent of construction or contractor as provided in section 48-02-07.

Approved March 3, 1981

## CHAPTER 468

HOUSE BILL NO. 1126  
(Committee on State and Federal Government)  
(At the request of the Department of Accounts and Purchases)

### NATIVE FUEL PURCHASE PROPOSAL PUBLICATION

AN ACT to repeal section 48-05-03 of the North Dakota Century Code, relating to publishing of proposals for state purchase of fuel products.

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

SECTION 1. REPEAL. Section 48-05-03 of the North Dakota Century Code is hereby repealed.

Approved February 20, 1981

## CHAPTER 469

SENATE BILL NO. 2409  
(Committee on Appropriations)

## FAIR ASSOCIATION CONCESSION WITHOUT BIDS

AN ACT to amend and reenact section 48-09-01 of the North Dakota Century Code, relating to permitting the North Dakota fair associations to grant concessions without letting bids; and to declare an emergency.

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

SECTION 1. AMENDMENT. Section 48-09-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

48-09-01. GRANTING OF CONCESSIONS FOR CAFES, RESTAURANTS, AND CONFECTIONERIES ON PUBLIC BUILDINGS AND GROUNDS. Any state official, board, or commission, any county official, board, or commission, and any municipal officer, board, or commission, having the supervision, control and management of any state, county, or municipal building and the adjacent grounds thereof, when it is deemed to be for the public benefit and good, may grant a concession therein or thereon for any cafe, restaurant, or confectionery, by renting, leasing, and licensing any such concession to the highest bidder or best bidder, or both, at a reasonable rental per month, for a period not exceeding eight years, and may reject any and all bids therefor. Provided, the board of directors of all North Dakota fair associations may grant a concession under this chapter without letting bids.

SECTION 2. EMERGENCY. This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 16, 1981

## CHAPTER 470

HOUSE BILL NO. 1563  
(Mushik, Eagles)

**CAPITOL ARTS AND HISTORIC  
PRESERVATION ADVISORY COMMITTEE**

AN ACT to establish a capitol arts and historic preservation advisory committee and to provide procedures and duties.

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

SECTION 1. CAPITOL ARTS AND HISTORIC PRESERVATION ADVISORY COMMITTEE - MEMBERSHIP. The capitol arts and historic preservation advisory committee shall consist of nine members appointed by the governor. The members shall consist of one historic preservationist, one representative of the North Dakota council on the arts, one licensed architect, one representative from the historical society, one interior decorator, one member of the senate, one member of the house of representatives, and two public members. The governor shall name one of the members as chairman, and the members of the committee shall choose one of their members as secretary.

SECTION 2. DUTIES AND RESPONSIBILITIES. The capitol arts and historic preservation advisory committee shall advise the director of institutions, the capitol grounds planning commission, and the legislative council on matters relating to the physical and aesthetic features of the interior of all buildings on the capitol grounds. The committee shall meet at the call of the chairman and must be called in whenever major interior changes, including new construction, remodeling, or renovation of any kind are proposed or considered for the buildings or facilities on the capitol grounds. The committee shall also be consulted prior to the purchase or installation of furniture or fixtures in public areas of the capitol and other buildings on the capitol grounds.

Approved April 1, 1981