

GENERAL PROVISIONS

CHAPTER 73

HOUSE BILL NO. 1050
(Legislative Council)
(Interim Judiciary Committee)

TECHNICAL CORRECTIONS ACT

AN ACT to amend and reenact sections 6-05-06, 10-06-01, subsection 3 of section 10-19.1-92, section 10-19.1-123, subsection 1 of section 10-30.1-04, sections 11-28.3-06, 21-03-09, 26.1-03-03, subsection 2 of section 26.1-18-28, section 26.1-21-22, subsection 3 of section 26.1-27-06, subsection 7 of section 26.1-33-05, sections 28-22-02, 29-07-01.1, 34-01-09.1, subsection 2 of section 34-11.1-04, sections 34-13-15, 35-08-04, 37-17.1-20, subsection 2 of section 39-10-07, sections 39-10-69, 39-10.1-01, 39-10.1-08, 39-20-12, 40-05-02, subsection 6 of section 41-09-42, sections 43-01-20, 43-33-07, 45-11-01, 50-06-05.2, subsection 1 of section 50-06-05.3, sections 54-14-03.1, 54-40-01, 54-54-03, 57-02-14, 57-11-03, 57-23-08, 57-28-18, 57-38-30.3, 61-21-46, and 65-14-01 of the North Dakota Century Code, relating to improper, inaccurate, redundant, or obsolete references; and to repeal section 35-20-10 of the North Dakota Century Code, relating to lien notices for federal taxes.

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

* SECTION 1. AMENDMENT. Section 6-05-06 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-05-06. Directors - Qualifications - Terms - Vacancies. All the corporate powers of such a corporation shall be exercised by a board of directors of not less than nine nor more than fifteen in number, and such officers and agents as it shall elect or appoint. A majority of the directors must be citizens of this state, and every director must own in his own right, free from hypothecation or pledge for any debt, at least ten shares of capital stock of the corporation of which he is a director, which said shares shall be known as "director's qualifying shares" and which shall be so marked across the face and retained ~~in~~ by the trust company, as provided in section 6-03-03 during the whole time that director continues in office, subject to inspection at all times by the commissioner or any authorized examiner. Any director who ceases to be the owner of

* NOTE: Section 6-05-06 was also amended by section 1 of Senate Bill No. 2383, chapter 110.

ten shares of stock, free and nonhypothecated, or who becomes in any manner disqualified, shall vacate his office thereupon. Every director, when elected or appointed, shall take the oath specified in section 6-03-04. Such oath, subscribed by the director making it and certified by the officer before whom it was taken, shall be transmitted at once to the commissioner to be filed in ~~his~~ the commissioner's office. The articles of incorporation must state the names and residences of the first board of directors, of whom the first named one-third shall serve for a period of three years, the second one-third named for a period of two years, and the balance thereof shall serve for a period of one year from the date fixed for the commencement of such corporation. In case any of the persons so named ~~shall~~ do not become stockholders to the amount required to qualify, or if they fail or refuse to qualify from any cause, the directors who ~~shall~~ qualify must elect qualified stockholders to fill such vacancies, and thereafter, at each annual meeting of the stockholders, directors shall be elected to serve three years in place of those whose terms then ~~shall~~ expire.

SECTION 2. AMENDMENT. Section 10-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-06-01. Farming or ranching by corporations prohibited - Retention of mineral interests prohibited. All corporations, except as otherwise provided in this chapter, are prohibited from owning or leasing land used for farming or ranching and from engaging in the business of farming or ranching. A corporation may be a partner in a partnership that is in the business of farming or ranching only if that corporation complies with this chapter. For land and minerals acquired after July 1, 1985, any corporation which acquires mineral interests through foreclosure or in lieu of foreclosure which were not specifically valued at the time the security interest in the minerals was acquired, and that is prohibited from owning or leasing land used in farming or ranching, is prohibited from retaining mineral interests in land used for farming or ranching when the corporation divests itself of the land, and the mineral interests must be passed with the surface estate of the land when the corporation divests itself of the land pursuant to this chapter. As used in this chapter, "corporation" includes any joint stock company or association.

A business corporation organized under chapter ~~10-19~~ 10-19.1 may convert to a farm corporation by adopting an amendment to its articles of incorporation. The amendment must specify that the corporation elects to be subject to this chapter, and the corporation does comply with all requirements of this chapter. The amendment must be filed with the prescribed fee and with the initial report required by section 10-06-07.3.

SECTION 3. AMENDMENT. Subsection 3 of section 10-19.1-92 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. In the case of a distribution made by a corporation in connection with a purchase, redemption, or other acquisition of its shares, the effect of the distribution must be measured as of the date on which money or other property is transferred, or indebtedness payable in installments or otherwise is incurred, by the corporation, or as of the date on which the shareholder ceases to be a shareholder of the corporation with respect to the shares, whichever is the earliest. The effect of any other distribution must be measured as of the date of its authorization if payment occurs one hundred twenty days or less following the date of authorization, or as of the date of payment if payment occurs more than one hundred twenty days following the date of authorization. The provisions of chapter ~~13-02~~ 13-02.1 do not apply to distributions made by a corporation governed by this chapter.

SECTION 4. AMENDMENT. Section 10-19.1-123 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-19.1-123. Deposit with state treasurer of amount due certain shareholders - Appropriation. Upon dissolution of a corporation, the portion of the assets distributable to a shareholder who is unknown or cannot be found, or who is under disability, if there is no person legally competent to receive the distributive portion, must be reduced to money and deposited with the state treasurer for disposition pursuant to chapter ~~47-30~~ 47-30.1. The amount deposited is appropriated to the state treasurer and must be paid over to the shareholder or a legal representative, upon proof satisfactory to the state treasurer of a right to payment.

SECTION 5. AMENDMENT. Subsection 1 of section 10-30.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. To carry out the purposes of this chapter, venture capital corporations may be formed under chapters ~~10-19~~ 10-19.1 through 10-23. The articles of incorporation of a venture capital corporation must comply with subsections 2 through 9.

SECTION 6. AMENDMENT. Section 11-28.3-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-28.3-06. Organization - Board of directors. At the time and place fixed by the county auditor for the public meeting as provided in section 11-28.3-05, the qualified electors present who reside within the boundaries of the district shall proceed to organize the district. Permanent organization shall be effected by the election of a board of directors consisting of not less than five nor more than ten residents of the district. The board of directors shall

meet as soon after the organizational meeting as possible to elect a president, a vice president, and a secretary-treasurer. All directors and officers shall be elected for two years and hold office until their successors have been elected and qualified, except that at the first election the vice president shall be elected as provided in this section for a one-year term, and one-half, or as close to one-half as possible depending upon the total number of directors, of the directors elected at the first election ~~following the effective date of this section~~ after July 1, 1977, shall be selected by lot in the presence of a majority of such directors to serve one-year terms. All officers and directors shall serve without pay.

SECTION 7. AMENDMENT. Section 21-03-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-09. Initial resolution - Form. Proceedings for the issuance of bonds under the authority of this chapter shall be instituted by the adoption of an initial resolution therefor. Such initial resolution shall state:

1. The maximum amount of bonds proposed to be issued.
2. The purpose for which they are proposed to be issued.
3. The assessed valuation of all taxable property in the municipality as defined in section 21-03-01.
4. The total amount of bonded indebtedness of the municipality.
5. The amount of outstanding bonds of the municipality issued for a similar purpose.
6. Any other statement of fact deemed advisable by the governing body ~~of~~ or voters proposing the same.

SECTION 8. AMENDMENT. Section 26.1-03-03 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

26.1-03-03. Cooperative and assessment life associations - Valuation of policies. Cooperative or assessment life associations shall be admitted to transact business in this state upon compliance with the provisions of this title relating to the licensing and admission of life insurance companies without being required to value their policies in conformity with chapter ~~26-10-1~~ 26.1-35. These associations must value their policies in the same manner as yearly renewable term policies are valued, according to the standard of valuation of life insurance policies prescribed by this title.

SECTION 9. AMENDMENT. Subsection 2 of section 26.1-18-28 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The health maintenance organization issues evidence of coverage or uses a schedule of charges for health care services which do not comply with the requirements of sections 26.1-18-12, and 26.1-18-14, ~~26-1-18-15,~~ and ~~26-1-18-16.~~

SECTION 10. AMENDMENT. Section 26.1-21-22 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

26.1-21-22. Publication of statement of fund - Biennial report to governor and office of management and budget. The commissioner, on or about the first day of December in each year after the regular session of the legislative assembly, shall publish in four newspapers of ~~federal~~ general circulation within the state a copy of the statement of the commissioner's work and of the condition of the fund during the two preceding fiscal years. The commissioner shall submit a biennial report as prescribed by section 54-06-04 to the governor and to the office of management and budget.

SECTION 11. AMENDMENT. Subsection 3 of section 26.1-27-06 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. A provision that withdrawals from the fiduciary account may be made only for:
 - a. Remittance to an insurer entitled thereto.
 - b. Deposit in an account maintained in the name of the insurer.
 - c. Transfer to and deposit in a claims paying account, with claims to be paid as provided in section ~~26-17-2-08~~ 26.1-27-10.
 - d. Payment to a group policyholder for remittance to the insurer entitled thereto.
 - e. Payment to the administrator of its commission, fees, or charges.
 - f. Remittance of return premiums to the person or persons entitled thereto.

SECTION 12. AMENDMENT. Subsection 7 of section 26.1-33-05 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. A provision that after the policy has been in force three 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 chapter ~~26-10-1~~ 26.1-35, 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 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. The provision may provide further that the loan may be deferred for not exceeding six months after the application for the loan is made. It must be stipulated further in the policy that failure to repay any advance or to pay interest thereon does not void the policy unless the total indebtedness thereon to the company equals or exceeds the loan value at the time of the failure nor until one month after notice has been mailed by the company to the last known address of the insured and of the assignee, if any. No other condition may be exacted as a prerequisite to any such advance. This provision is not required in a policy of term insurance.

SECTION 13. AMENDMENT. Section 28-22-02 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-22-02. Absolute exemption. The property mentioned in this section is absolutely exempt from all process, levy, or sale:

1. All family pictures.
2. A pew or other sitting in any house of worship.
3. A lot or lots in any burial ground.
4. The family Bible and all schoolbooks used by the family and all other books used as a part of the family library not exceeding in value one hundred dollars.
5. All wearing apparel and clothing of the debtor and his family.
6. The provisions for the debtor and ~~his~~ the debtor's family necessary for one year's supply, either provided or growing, or both, and fuel necessary for one year.
7. The homestead as created, defined, and limited by law.
8. All crops and grain, both threshed and unthreshed, raised by the debtor on not to exceed one hundred sixty acres [64.75 hectares] of land in one tract occupied by the debtor, either as owner or tenant, as ~~his~~ the debtor's

home, but the provisions of this subsection in no way ~~shall~~ affect seed, ~~farm labor~~, thresher, or landlord liens, and if the debtor takes advantage of this subsection he shall the debtor may not avail himself of take any additional alternative exemptions provided under this chapter.

9. All insurance benefits resulting from insurance covering any or all of the absolute exemptions.
10. Any housetrailer or mobile home occupied as a residence by the debtor or his the debtor's family, except that it ~~shall~~ is not be exempt from process, levy, or sale for taxes levied on it pursuant to chapter 57-55.

* SECTION 14. AMENDMENT. Section 29-07-01.1 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-07-01.1. Payment of expenses for defense of indigents. Lawyers appointed to represent needy persons shall be compensated at a reasonable rate to be determined by the court. Expenses necessary for the adequate defense of a needy person, when approved by the judge, shall be paid by the county wherein the alleged offense took place if the action is prosecuted in county court, and by the state if the action is prosecuted in district court. The state shall also pay the defense expenses in any felony action prosecuted in county court pursuant to subsection ~~7~~ 8 of section 27-07.1-17. A defendant with appointed counsel shall pay to the county or state such sums as the court shall direct. The state's attorney of the county wherein the action was prosecuted shall seek recovery of any such sums any time he determines the person for whom counsel was appointed may have funds to repay the county or state within six years of the date such amount was paid on his behalf.

SECTION 15. AMENDMENT. Section 34-01-09.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-01-09.1. Maximum hours of labor. No employee, other than the chief, of a fire department in any city of North Dakota with a population of twenty thousand or more inhabitants, ~~shall be~~ is required to work more than one hundred forty-four hours in any two-week period but ~~shall be~~ is subject to call while off duty in case of emergency not to exceed more than one hundred forty-four hours in this two-week period. Any person who ~~shall violate~~ violates any provision of this section ~~shall be~~ is guilty of a misdemeanor and ~~shall~~ must be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars.

SECTION 16. AMENDMENT. Subsection 2 of section 34-11.1-04 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- * NOTE: Section 29-07-01.1 was also amended by section 2 of Senate Bill No. 2040, chapter 375, by section 1 of Senate Bill No. 2105, chapter 393, and by section 1 of Senate Bill No. 2493, chapter 392.

2. For having made a report under subsection 1 no employee will:
 - a. Be dismissed from employment.
 - b. Have salary increases ~~of~~ or employment-related benefits withheld.
 - c. Be transferred or reassigned.
 - d. Be denied a promotion which the employee otherwise would have received.
 - e. Be demoted.
 - f. Be discriminated against in any term or condition of employment.

SECTION 17. AMENDMENT. Section 34-13-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-13-15. Employment agent requirements. In addition to the foregoing ~~rules~~ sections governing specific classifications, the following ~~rules~~ shall govern each and every employment agent:

1. Every license, of whatever classification, shall be hung in a conspicuous place in the main office of the employment agency.
2. No fee ~~shall~~ may be solicited or accepted as an application or registration fee by any employment agent for the purpose of being registered as an applicant for employment.
3. Every employment agent shall give to every person from whom the payment of a service charge is received for services rendered or to be rendered, or assistance given or to be given, a receipt bearing the name and address of the employment agency, the name of the employment agent, the amount of the payment, the date of the payment and for what it is paid. Every receipt to an applicant by an employment agent ~~shall~~ must be numbered and bound in duplicate form. A duplicate copy of each receipt ~~shall~~ must be kept at least one year.
4. Every employment agent shall keep a record of all services rendered employers and employees. This record ~~shall~~ must contain the name and address of the employer by whom the services were solicited, the name and address of the employee, kind of position offered by the employer, kind of position accepted by the employee, probable duration of the employment, rate of wage or salary to be paid the employee, amount of the employment agent's service charge, dates and amounts of payments, date and amount of refund,

if any, and for what, and a space for remarks under which ~~shall~~ must be recorded anything of an individual nature to amplify the foregoing report and as information in the event of any question arising concerning the transaction. Such records ~~shall~~ must during business hours be open to the inspection of the commissioner at the address where the employment agency is conducted for the purpose of satisfying the commissioner that they are being kept in conformity with this ~~rule~~ section. Upon written complaint being made, the commissioner may require of the employment agent against whom the complaint is made a detailed account under oath in writing of the transaction referred to in the complaint. ~~in the event~~ if the commissioner has reason to question the detailed report so submitted by the employment agent, the commissioner ~~shall~~ have authority to ~~may~~ demand of the employment agent the production of these records for examination by ~~him~~ the commissioner, or his ~~the commissioner's~~ agent, at such place as the commissioner may designate.

5. No employment agent ~~shall~~ may send out any applicant for employment without having obtained, either orally or in writing, a bona fide order, and if no employment of the kind applied for existed at the place to which the applicant was directed, the employment agent shall refund to the applicant, within forty-eight hours of demand, any sums paid by the applicant for transportation in going to and returning from the place, and all fees paid by the applicant. ~~Nothing in this~~ This chapter shall be construed to ~~does not~~ prevent an employment agent from directing an applicant to an employer where the employer has previously requested that he be accorded interviews with applicants of certain types and qualifications, even though no actual vacancy existed in the employer's organization at the time the applicant was so directed; nor ~~shall~~ does it prevent the employment agent from attempting to sell the services of an applicant to the employer even though no order has been placed with the employment agent; provided, that in any case the applicant is acquainted with the facts when directed to the employer, in which event no employment agent ~~shall~~ be is liable to any applicant as provided in this ~~rule~~ section.
6. No employment agent ~~shall~~, by himself may, personally, or by ~~his~~ an agent or agents, solicit, persuade, or induce any employee to leave any employment in which the employment agent or his agents has placed the employee. Nor ~~shall~~ may any agent, by himself personally or through any ~~of his agents~~ agents, persuade or induce or solicit any employer to discharge any employee.
7. No employment agent ~~shall~~ may knowingly cause to be printed or published a false or fraudulent notice or

advertisement for help or for obtaining work or employment.

8. Repealed by S-L- 1975, ch- 106, § 673-

9- No employment agent ~~shall~~ may place or assist in placing any person in unlawful employment.

~~10-~~ 9. No employment agent ~~shall~~ may fail to state in any advertisement, proposal, or contract for employment, that there is a strike or lockout at the place of proposed employment, if he ~~the agent~~ has knowledge that such condition exists.

~~11-~~ 10. Any person who shall split, divide, or share, directly or indirectly, any fee, charge, or compensation received from any employee with any employer, or person in any way connected with the business thereof, ~~shall be~~ is guilty of a class A misdemeanor.

* SECTION 18. AMENDMENT. Section 35-08-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-08-04. Lien for furnishing motor fuel - Filing. Any person who furnishes gasoline, diesel fuel, tractor fuel or other motor fuel to another to be used for the production of any agricultural crop ~~shall be~~ is entitled to a lien upon all crops produced by the use of such fuel to secure the payment of the purchase price thereof upon compliance with the provisions of this section. At any time after the fuel has been furnished, but in no event later than the first day of November in the year such fuel was furnished, the person selling such fuel shall perfect ~~his~~ the lien by filing in the office of the register of deeds of the county in which the crop is produced a verified statement showing the name and address of the person claiming the lien, the name of the person to whom the fuel has been furnished, the name of the crop or crops grown by such purchaser, a description of the land upon which the crop was grown, and the amount of fuel furnished. From and after the date of filing the statement provided in this section, the claimant shall have a lien upon the crops therein described to the amount of the purchase price of the fuel sold. Such lien ~~shall have~~ has priority over all other liens except threshing liens, seed liens, ~~farm labor liens,~~ and crop production liens. The register of deeds shall charge a fee of one dollar for the filing of a verified statement perfecting the lien. ~~Such~~ The lien ~~shall~~ must be indexed and filed in the same manner as chattel mortgages are filed and may be satisfied by an instrument similar to a satisfaction of chattel mortgages.

SECTION 19. AMENDMENT. Section 37-17.1-20 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-17.1-20. Community disaster loans. In accordance with the provisions of the United States Disaster Relief Act of 1974 [Pub. L.

* NOTE: Section 35-08-04 was also amended by section 2 of Senate Bill No. 2295, chapter 155.

93-288; 88 Stat. 143], the governor is authorized to enter into such agreements and execute such assurances on behalf of the state of North Dakota as may be necessary to establish, in the event of a presidentially declared "major disaster", a program of community disaster loans in those cases where communities are unable to meet or provide for their essential governmental functions through assistance under provisions other than section 414 of the Disaster Relief Act or through other means. Upon the governor's determination that a local government of the state will suffer a substantial loss of tax and other revenues from a disaster and has demonstrated a need for financial assistance to perform its governmental functions ~~to~~, the governor may apply to the federal government, on behalf of the local government, for a loan; and ~~to~~ receive and disburse the proceeds of any approved loan to any applicant local government.

The governor ~~shall be authorized~~ may:

1. ~~To determine~~ Determine the amount needed by any applicant local government to restore or resume its governmental functions, and ~~to~~ certify the same to the federal government. No application amount ~~shall~~ may exceed twenty-five percent of the annual operating budget of the applicant for the fiscal year in which the disaster occurs.
2. ~~To recommend~~ Recommend to the federal government, based upon the governor's review, the cancellation of all or any part of repayment when, within three fiscal years following the disaster, the revenues of the local government are insufficient to meet its operating expenses, including additional disaster-related expenses of a county or city.

SECTION 20. AMENDMENT. Subsection 2 of section 39-10-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. This section ~~shall~~ does not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings ~~shall be~~ is governed by the ~~rules~~ as requirements set forth in section 39-10-41.

SECTION 21. AMENDMENT. Section 39-10-69 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-10-69. Charging violation and proving negligence in civil action.

1. In every charge of violation of any speed regulation, the complaint and the summons or notice to appear shall specify the speed at which the defendant is alleged to have driven, and also the maximum speed applicable within the district or at the location.

2. The provision in this ~~article~~ title declaring maximum speed limitations ~~shall~~ may not be construed to relieve the plaintiff in any action from the burden of proving negligence on the part of the defendant as the proximate cause of the accident.

SECTION 22. AMENDMENT. Section 39-10.1-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-10.1-01. Effect of chapter - Penalty for violation.

1. It is unlawful for any person to do any act forbidden or fail to perform any act required in this chapter. Any person who violates any of the provisions of this chapter may be assessed a fee not to exceed five dollars.
2. The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this chapter.
3. These ~~regulations~~ provisions applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein.

SECTION 23. AMENDMENT. Section 39-10.1-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-10.1-08. Point system not applicable. Any violation of ~~the provisions of~~ this chapter, or any moving violation as defined in section 39-06.1-09, or any nonmoving violation as defined in section 39-06.1-08 when committed on a bicycle as defined in section 39-09-01 ~~39-01-01~~, shall not be cause for the licensing authority to assess points against the driving record of the violator pursuant to section 39-06.1-10. Any other legally authorized penalty for a criminal traffic offense or noncriminal traffic violation shall be applicable to bicyclists.

SECTION 24. AMENDMENT. Section 39-20-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-12. Liability. ~~if any~~ Any licensed physician, nurse, technician, or an employee of a hospital who ~~shall draw~~ draws blood from any person pursuant to a request of any arresting officer ~~he shall is~~ not be liable in any civil action for damages arising out of said act except for gross negligence.

* SECTION 25. AMENDMENT. Section 40-05-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-05-02. Additional powers of city council and board of city commissioners. The city council in a city operating under the council

- * NOTE: Section 40-05-02 was also amended by section 1 of House Bill No. 1105, chapter 490.

form of government and the board of city commissioners in a city operating under the commission system of government, in addition to the powers possessed by all municipalities, shall have power:

1. Street railway and railway tracks. To permit, regulate, or prohibit the locating, constructing, or laying of railway or street railway tracks in any street, alley, or public place, and any permission given to a street railway shall not be for a longer period than fifty years.
2. Sale of milk. To license the sale of milk.
3. Lumber, wood, coal, hay, and merchandise - Municipal scales. To regulate the inspecting, weighing, and measuring of lumber, firewood, coal, hay, and other articles of merchandise, to establish or purchase one or more city scales and to require dealers in hay, coal, firewood, or any other commodity, which, in the judgment of the governing body, should be weighed upon the city scales, to use such scales in the sale of such commodity, and to charge a reasonable fee for the use of such scales.
4. Fences and party walls. To regulate partition fences and party walls.
5. Jail, house of correction, workhouse. To establish, maintain, and regulate a city jail, house of correction, and workhouse for the confinement and reformation of disorderly persons convicted of violating any city ordinance, and to appoint necessary jailers and keepers.
6. Building permits. To provide by ordinance for the issuance of building permits and to fix the fees therefor.
7. Building construction - Fire escapes. To prescribe the manner of constructing buildings, structures, and the walls thereof; to require and regulate the construction of fire escapes on buildings; and to provide for the inspection of all buildings within the limits of the municipality and for the appointment of a building inspector.
8. Bridges, viaducts, tunnels, and overhead pedestrian bridges. To construct and keep in repair bridges, viaducts, overhead pedestrian bridges, and tunnels, and to regulate the use thereof.
9. Police. To regulate the police of the municipality and to pass and enforce all necessary police ordinances.
10. Hospitals and medical dispensaries. To establish, control, and regulate hospitals and medical dispensaries.

11. Census. To provide for the taking of a census of the city, but no city census shall be taken more often than once in every three years.
12. Redistricting city. To redistrict the city into wards and to prescribe the boundaries thereof.
13. Zoning. To adopt a zoning ordinance as provided in this title; to regulate the location of junk shops, coalyards, garages, machine shops, power laundries, hospitals, and undertaking establishments; and to establish building lines fixing the distance from the property line at which buildings may be erected.
14. Traffic regulation. To regulate, control, or restrict within designated zones, or congested traffic districts, except that the speed limit for vehicles on those streets designated as part of any state highway shall be as determined by mutual agreement with the state highway commissioner, the use of streets, alleys, or other public ways by various classes of traffic, except that any municipal regulations shall be ineffective as to common carriers licensed by this state under a certificate of public convenience and necessity until such regulations are approved by the public service commission.
15. Driving while intoxicated. To prohibit by ordinance the operation of any motor vehicle or other conveyance upon the streets, alleys, or other public or private areas to which the public has a right of access for vehicular use within the city by any person under the influence of intoxicating liquor or a controlled substance.
16. Tourist camps. To license, regulate, and fix the location of any public or private tourist camp within the city.
17. Water supply. To withdraw from any stream, watercourse, or body of water within or without a city, or within or without, or bordering upon, this state, a supply of water reasonably sufficient for the needs of the inhabitants of the city, and to supply the facilities for the storage of water for all other necessary municipal purposes.
18. Dams for municipal water purposes. To erect dams upon or across streams, watercourses, or bodies of water within or without, or bordering upon, the boundaries of this state, and to improve, alter, or protect the bed, banks, or course thereof.
19. Water supply - Acquire necessary property. To acquire by gift, grant, lease, easement, purchase, or by eminent domain, and to own, operate, maintain, and improve, all lands, structures, power plants, public works, and personal property, whether within or without this state,

- necessary for the maintenance and conservation of its water supply.
20. Abandoned or unclaimed personal property. To provide by ordinance for the taking, storage, and disposal of any personal property abandoned or left unclaimed upon the streets, alleys, or other public ways of the city for a period exceeding ten days, and, after holding such property for a period of not less than sixty days, to sell the same at public sale after a notice published or posted at least ten days before the sale, and at such place, and in such manner as may be provided by ordinance. Upon the sale of the property, the city shall convey to the purchaser a merchantable title by a bill of sale. At any time within six months after the sale, the owner of the property, upon written application, shall be entitled to receive the proceeds of the sale from the city, less the necessary expense of taking, storing, and selling the property. The owner of the property may reclaim it at any time prior to the sale upon payment of the necessary expense of taking and storing.
 21. Auditoriums and public buildings. To take charge of a fully completed auditorium or other property originally purchased or acquired for public use by public subscription, donation, sale of stock, or otherwise, where such auditorium or other property has been abandoned or lost by the original owner or owners, their successors or assigns, and to operate, maintain, repair, and keep such property for public use. In the ownership, management, use, or operation thereof, the city shall be deemed to be exercising a governmental function.
 22. Dogs. To license dogs, and to regulate the keeping of dogs including authorization for their disposition or destruction in order to protect the health, safety, and general welfare of the public.
 23. ~~Sale of pistols. To regulate the sale of pistols as prescribed in title 62-~~
 - 24- Substandard buildings or structures. The governing body of any city shall have the authority to provide by ordinance for the demolition, repair, or removal of any building or structure located within the limits of such city or other territory under its jurisdiction, which creates a fire hazard, is dangerous to the safety of the occupants or persons frequenting such premises, or is permitted by the owner to remain in a dilapidated condition. Any such ordinance shall provide for written notice to the owner of a hearing by the governing body before final action is taken by such body. It shall also provide a reasonable time within which an appeal may be taken by the owner from any final order entered by such

governing body to a court of competent jurisdiction. This subsection shall in no way limit or restrict any authority which is now or may hereafter be vested in the state fire marshal for the regulation or control of such buildings or structures.

- ~~25-~~ 24. Assault and battery. To prohibit by ordinance and prescribe the punishment for the commission of assault and battery within the jurisdiction of the city.
- ~~26-~~ 25. Theft. To prohibit by ordinance and prescribe the punishment for the commission of theft, as defined by chapter 12.1-23, within the jurisdiction of the city.
- ~~27-~~ 26. Peace bonds. To provide by ordinance for the issuance of peace bonds by the municipal judge in accordance with the procedure in chapter 29-02.
- ~~28-~~ 27. Public transportation. To provide by ordinance for the purchase, acquisition, or establishment, and operation of a public transportation system. In the alternative to provide for payments under a contract, approved by the governing body of the city, with a private contractor, for the provision and operation of a public transportation system within the city.
- ~~29-~~ 28. Traffic violation hearings. To enact an ordinance equivalent to section 39-06.1-04; provided, that the penalty assessed shall not exceed that authorized by section 40-05-06.
- ~~30-~~ 29. Marijuana possession. To prohibit by ordinance any person, except a person operating a motor vehicle, from possessing not more than one-half ounce [14.175 grams] of marijuana, as defined by section 19-03.1-01, within the jurisdiction of a city, and to prescribe the punishment, provided the penalty assessed shall be subject to subsection 4 of section 19-03.1-23.

SECTION 26. AMENDMENT. Subsection 6 of section 41-09-42 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. If the debtor is a transmitting utility (subsection 5 of section 41-09-40) and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under subsection 9 6 of section 41-09-41 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

SECTION 27. AMENDMENT. Section 43-01-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-01-20. **Penalty.** Any person making, compiling or certifying to an abstract of title to real property in this state without first having ~~compiled~~ complied with the provisions of this chapter is guilty of a class B misdemeanor.

SECTION 28. AMENDMENT. Section 43-33-07 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-33-07. License by examination.

1. Applicants who do not meet the experience qualification on the effective date of this chapter July 1, 1969, may obtain a license by successfully passing a qualifying examination, provided the applicant:
 - a. Be Is at least eighteen years of age.
 - b. Be Is of good moral character.
 - c. Has an education equivalent to a four-year course in an accredited high school.
 - d. Is free of contagious or infectious disease.
2. The applicant for license by examination shall appear at a time, place, and before such persons as the department may designate, to be examined by means of written and practical tests in order to demonstrate that he the applicant is qualified to practice the fitting and sale of hearing aids. The examination administered as directed by the board constituting standards for licensing ~~shall~~ may not be conducted in such a manner that college training be is required in order to pass the examination. Nothing in this examination ~~shall~~ may imply that the applicant ~~shall~~ must possess the degree of medical competence normally expected of physicians.
3. The department shall give examinations once a year at a time and place to be designated by the board, and may give more frequent examinations if deemed necessary by the board.
4. In addition to all other fees, the fee for an examination to determine qualifications for license ~~shall~~ must be set by the board.

SECTION 29. AMENDMENT. Section 45-11-01 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

45-11-01. Use of fictitious partnership name. Every partnership transacting business in this state under a fictitious name, or a designation not showing the names of the persons interested as

partners in such business, must file a fictitious name certificate with the secretary of state, together with a filing fee of twenty-five dollars. A limited partnership of a foreign limited partnership transacting business under a name filed pursuant to chapter ~~45-10~~ 45-10.1, and as otherwise provided in section 45-11-03, is not required to file a fictitious name certificate pursuant to this section.

The fictitious name:

1. May not contain the word "corporation", "company", "incorporated", or "limited", or an abbreviation of one of such words. This does not preclude the word "limited" from being used in conjunction with the word "partnership".
2. May not be the same as, or deceptively similar to any corporate name, trade name, limited partnership name, foreign limited partnership name, or fictitious name certificate on file with the secretary of state.

SECTION 30. AMENDMENT. Section 50-06-05.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-06-05.2. Regional human service centers - Licensure - Collocation with county social service boards. Human services shall be delivered through regional human service centers in the areas designated by the governor's executive order 49 1978-12 dated ~~September 18, 1969~~ October 5, 1978. Services provided by regional human service centers shall include those services formerly provided by mental health and retardation service units and area social service centers. The regional human service centers shall be subject to licensing by the department. The department shall adopt rules and standards for the licensing and operation of the regional human service centers. No human service center may operate without a license issued hereunder. Regional human service centers are authorized to receive federal and other funds available to finance, in whole or in part, the services and operations of the centers. Any county social service board collocating its offices with a regional human service center shall, within the limits of legislative appropriations, be reimbursed up to fifty percent of the amount expended for space costs in excess of the amount provided by the federal government.

SECTION 31. AMENDMENT. Subsection 1 of section 50-06-05.3 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Regional human service centers organized under this chapter are those centers established to provide human services as authorized by law. The term "human service" means service provided to individuals or their families in need thereof to help them achieve, maintain, or support

the highest level of personal independence and economic self-sufficiency, including health, mental health, education, manpower, social, vocational rehabilitation, aging, food and nutrition, and housing service. Regional human service centers shall function as regional administrative units established, within the multicounty areas designated by the governor's executive order 49 1978-12 dated ~~September 18, 1969~~ October 5, 1978, to provide for the planning and delivery of human services.

SECTION 32. AMENDMENT. Section 54-14-03.1 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-14-03.1. Reports to legislative council budget ~~committee~~ section. ~~It shall be the duty of the~~ The office of the budget, in the course of the preaudit of claims against the state, or in otherwise carrying out its duties, ~~to~~ shall note irregularities in the fiscal practices of the state and its departments, agencies, and institutions and areas where more uniform and improved fiscal procedures are desirable, and it shall further note expenditures and governmental activities that it may believe to be contrary to law or to the intent of the legislative assembly. "Irregularities" as used in this section includes the use of state funds to provide bonuses, cash incentive awards, and temporary salary adjustments for state employees. The office of the budget shall submit a detailed written report accompanied by adequate documentation to the budget ~~committee~~ section of the legislative council, or any division of ~~that committee~~ the budget section designated for that purpose, setting out the irregularity, expenditure, or activity. The report shall be presented at the next scheduled meeting of the ~~committee~~ budget section following the discovery of the irregularity, expenditure, or activity.

SECTION 33. AMENDMENT. Section 54-40-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-40-01. Agreement. Two or more governmental units or municipal corporations having in common any portion of their territory or boundary, by agreement entered into through action of their governing bodies, may jointly or cooperatively exercise their respective separate powers, or any power common to the contracting parties or any similar powers, including those which are the same except for the territorial limits within which they may be exercised for the purpose of acquiring, constructing, and maintaining any building for their joint use. The term "governmental unit" as used in this ~~action~~ section includes and means every city, county, town, park district, school district, states and United States governments and departments of each thereof, and all other political subdivisions even though not specifically named or referred to herein.

* **SECTION 34. AMENDMENT.** Section 54-54-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* **NOTE:** Section 54-54-03 was also amended by section 1 of Senate Bill No. 2426, chapter 661.

54-54-03. Term of office - Confirmation of appointments by senate-- Filling vacancies - Chairman - Vice chairman - Expenses. The term of office of each member shall be is five years; provided, however, that of the members first appointed, five shall must be appointed for terms of one year, five for terms of three years, and five for terms of five years. The governor shall make the initial appointments to the council within thirty days of July 1, 1967, and those members who were appointed initially and who are still serving by the next legislative session shall be confirmed or rejected by the senate, and if confirmed they shall serve for the remainder of their original terms. When the legislative assembly shall be in session at any time within six months prior to the date of the expiration of the term of any member of the council, the governor shall appoint his successor within the first five days of such session and upon the confirmation of such appointment by the senate, such successor shall take office on the date of the expiration of the term of the incumbent. When a vacancy occurs upon the council otherwise than by the expiration of the term of office of a member thereof, when the legislative assembly is not in session, or when the term of a member of the council expires more than six months after the adjournment of the session of the legislative assembly held prior to the date of the expiration of such term, the governor shall appoint a person to fill such vacancy who shall serve until the opening of the next session of the legislative assembly succeeding such interim appointment, at which time such appointment shall be certified to the senate for confirmation. If the appointment is not confirmed by the thirtieth legislative day of such session, the office so filled by interim appointment shall be deemed vacant and the governor shall appoint another for such office and the same proceedings shall be followed as provided in this section until a nomination has been confirmed by the senate. If the a vacancy to be filled occurs otherwise than by the expiration of the term of office of a member of the council, the appointment shall must be made for the balance of the term only. No person who has been nominated by the governor in accordance with this section and whose appointment the senate has failed to confirm shall be eligible for an interim appointment. Other than the chairman, no member of the council who serves a full five-year term shall be is eligible for reappointment during a one-year period following the expiration of his term. The governor shall designate a chairman and a vice chairman from the members of the council who shall serve at the pleasure of the governor. The chairman shall be the chief executive officer of the council. The members of the council shall may not receive any compensation for their services, but shall must be reimbursed for their travel expenses in the same manner and at the same rates as provided by law for other state officials for necessary travel in the performance of their duties as members of the council.

SECTION 35. AMENDMENT. Section 57-02-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-14. Valuation of real property exempt from taxation. At the time of making the assessment of real property in every odd-numbered

~~year~~, the assessor shall enter in a separate list each description of property exempt by law, except property of the United States, or the state of North Dakota, or of any county or municipal corporation, and shall value it in the same manner as other property, designating in each case to whom such property belongs and for what purpose used.

SECTION 36. AMENDMENT. Section 57-11-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-11-03. Duties of board - Limitation on increase - Notice. At its meeting, the board of equalization shall proceed to equalize and correct the assessment roll. It may change the valuation and assessment of any real ~~or personal~~ property upon the roll by increasing or diminishing the assessed valuation thereof as shall be reasonable and just to render taxation uniform, except that the valuation of any property returned by the assessor shall not be increased more than twenty-five percent without first giving the owner or his agent notice of the intention of the board to increase it. The notice shall state the time when the board will be in session to act upon the matter and shall be given by personal notice served upon the owner or his agent or by leaving a copy at his last known place of residence.

SECTION 37. AMENDMENT. Section 57-23-08 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-23-08. Duties of county auditor and county commissioners after abatement action. After the granting of any application for abatement or refund or compromise of any tax, the county auditor shall correct all tax lists in accordance with the order of abatement or compromise, and the applicant shall be relieved of further liability for the tax abated or compromised. If the board of county commissioners disapproves any application for abatement or refund or compromise, in whole or in part, the reasons for disapproval shall be stated thereon and the applicant may appeal the rejection of the application for abatement or refund or compromise as provided by law. The county auditor, at the close of each calendar year, shall certify to the director of the state office of management and budget the amount of state taxes canceled by action of the board of county commissioners ~~or the tax appeals board~~ and the same shall be credited to the county.

SECTION 38. AMENDMENT. Section 57-28-18 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-28-18. Terms of private sale and redemption and distribution of proceeds. Any private sale of real property made between the annual November sales shall be made upon the same terms and conditions as a sale is authorized to be made at the November sale, except that when farmland is sold after the first of January such sale will be made subject to any existing farm lease of said land for the year in

which such sale is made, and if such property is sold at private sale to any person other than the former owner, his executor or administrator, or any member of his immediate family, such sale shall be held in abeyance for a period of thirty days from the date of notice to the former owner, his executor or administrator, or any member of his immediate family, given by registered or certified mail by the county auditor, to his last known post-office address, or, if the post-office address is not known, then to the post office nearest the land, during which time the former owner, his executor or administrator, or any member of his immediate family, may make redemption by payment in full of the delinquent taxes, penalty, and interest charged against such real estate or the proposed sale price, whichever may be the lesser. If no redemption is made by the former owner, his executor or administrator, or any member of his immediate family, during said period of thirty days, then the sale shall be final and the purchaser shall be entitled to a deed as provided in this chapter. When farmlands are so redeemed after the first of January, such redemption will be made subject to any existing farm lease of said lands for the year in which such redemption is made. In case of the sale or contract for sale or redemption of tax deed land before the first of February, such land shall be assessed and taxed for the current year, and the purchaser or vendee or redemptioner shall be entitled to the rental and landlord's share of crops on such land for such year. In case of the sale or contract for purchase or redemption of tax deed land after ~~March~~ January thirty-first, the land shall not be assessed and taxed for the current year, and the county shall retain the rental and landlord's share of the crops thereon for that year. The proceeds realized from such sale shall be apportioned in the manner in which the proceeds of the annual November sale are distributed. The proceeds realized from any rental and landlord's share of the crops shall be apportioned in the manner in which other rental proceeds are distributed under the present law.

* SECTION 39. AMENDMENT. Section 57-38-30.3 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-30.3. Simplified optional method of computing tax.

1. Notwithstanding the other provisions of this chapter, an individual, estate, or trust may elect to determine state income tax liability by applying the provisions of this section. Any taxpayer electing to determine his income tax liability pursuant to this section shall only be eligible for those adjustments or credits which are specifically provided for in this section. Provided, that for purposes of this section, any person required to file a state income tax return pursuant to the provisions of this chapter, but who has not computed a federal taxable income or federal income tax liability figure shall compute such a federal taxable income figure using a pro forma return pursuant to the provisions of this section in order to determine a federal income tax liability figure

* NOTE: Section 57-38-30.3 was also amended by section 2 of House Bill No. 1901, chapter 695.

- to be used as a starting point in computing state income tax.
2. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust. This tax shall be ten and one-half percent of the individual's, estate's, or trust's adjusted federal income tax liability for the taxable year.
 3. The adjusted federal income tax liability for a resident individual, estate, and trust shall be determined by multiplying the federal income tax liability by a fraction, the numerator of which is the adjusted gross income taxable to this state and the denominator of which is the total adjusted gross income as reported on the federal income tax return. Interest income from United States obligations and other income not taxable to this state because of federal statutes, United States or state constitutional provisions shall be excluded from the numerator.
 4. The adjusted federal income tax liability of a nonresident individual, estate, and trust shall be determined by multiplying the federal income tax liability by a fraction, the numerator of which is the adjusted gross income derived from sources within this state and the denominator of which is the total adjusted gross income as reported on the federal income tax return. Interest income from United States obligations and other income not taxable to this state because of federal statutes, United States or state constitutional provisions shall be excluded from the numerator.
 5. For the purposes of this section, the term "federal income tax liability" means the individual's, estate's, or trust's federal income tax liability as computed for federal income tax purposes using tax tables or schedule TC, plus additional taxes due on federal income tax schedules or forms 4970, 4972, 5544, 5405, section 72(m)(5) penalty tax, 4625, 6251, and 5329, and before credit for contributions to candidates for public office, credit for the elderly (schedule R&RP), credit for child and dependent care expenses (form 2441), investment credit (form 3468), foreign tax credit (form 1116), work incentive credit (form 4874), jobs credit (form 5884), residential energy credit (form 5695), and before reduction for federal income tax withheld, estimated payments, earned income credit, excess Federal Insurance Contributions Act (chapter 21 of the Internal Revenue Code of 1954, as amended), and the federal Railroad Retirement Tax Act (chapter 22 of the Internal Revenue Code of 1954, as amended), taxes withheld, credit for federal taxes on special fuels and oils, and regulated investment company

credits. The term does not include amounts due for self-employment tax or social security tax and railroad retirement tax on tips. For purposes of this subsection, additional taxes due on federal income tax form 6251 shall be reduced, but not below zero, by the amount of any investment credit used to reduce the federal tax liability before calculation of the additional tax due on form 6251.

6. Where a husband and wife determine their federal income tax liability for the taxable year on a joint federal income tax return they may elect to determine their North Dakota income taxes separately. The federal income tax liability shall be apportioned between them in the proportion that the adjusted gross income of each bears to their combined adjusted gross income. The adjusted gross income of each shall be determined in the same way that each would have been required to determine it if they had filed separate federal income tax returns.
7.
 - a. A resident individual, estate, or trust shall be allowed a credit against the tax otherwise due under this section for the amount of any income tax imposed on the taxpayer for the taxable year by another state or territory of the United States or the District of Columbia on income derived from sources therein and which is also subject to tax under this section.
 - b. The credit provided under this subsection shall not exceed the proportion of the tax otherwise due under this section that the amount of the taxpayer's adjusted gross income derived from sources in the other taxing jurisdiction bears to the taxpayer's entire adjusted gross income as reported on the taxpayer's federal income tax return.
8. ~~An individual, estate, or trust shall be allowed as a credit against the tax otherwise due under this section the energy cost relief credit provided for in section 57-38-29-1.~~
- 9-
 - a. Individuals, estates, or trusts receiving a refund of federal income tax for a year for which an election to file state income tax returns has been made under this section shall file amended state income tax returns reducing the federal income tax liability for the year for which the federal income tax refund is granted and shall not report the federal income tax refund in the year received.
 - b. Individuals, estates, or trusts assessed additional federal income tax for a year for which an election to file state income tax returns has been made under this section shall file amended state income tax returns increasing the federal income tax liability for the

year for which the additional federal income tax is assessed and shall not report increased federal income tax liability in the year in which the additional federal income tax is paid.

10- 9. The tax commissioner may prescribe procedures and guidelines to prevent requiring income that had been previously taxed under this chapter from becoming taxed again because of the provisions of this section and may prescribe procedures and guidelines to prevent any income from becoming exempt from taxation because of the provisions of this section if it would otherwise have been subject to taxation under the provisions of this chapter.

SECTION 40. AMENDMENT. Section 61-21-46 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-21-46. Maximum levy - Accumulation of fund. The levy in any year for cleaning out and repairing a drain shall not exceed one dollar and fifty cents per acre [.40 hectare] on any agricultural lands in the drainage district.

1. Agricultural lands which carried the highest assessment when the drain was originally established, or received the most benefits under a reassessment of benefits, may be assessed the maximum amount of one dollar and fifty cents per acre [.40 hectare]. The assessment of other agricultural lands in the district shall be based upon the proportion that the assessment of benefits at the time of construction or at the time of any reassessment of benefits bears to the assessment of the benefits of the agricultural land assessed the full one dollar and fifty cents per acre [.40 hectare]. Nonagricultural property shall be assessed such sum in any one year as the ~~rationing~~ ratio of the benefits under the original assessments or any reassessments bears to the assessment of agricultural land bearing the highest assessment.
2. Agricultural lands shall be assessed uniformly throughout the entire assessed area. Nonagricultural property shall be assessed an amount not to exceed one dollar for each five hundred dollars of taxable valuation of such nonagricultural property.

In case the maximum levy or assessment on agricultural and nonagricultural property for any year will not produce an amount sufficient to cover the cost of cleaning out and repairing such drain, the board may accumulate a fund in an amount not exceeding the sum produced by such maximum permissible levy for two years. If the cost of, or obligation for, the cleaning and repair of any drain shall exceed the total amount which can be levied by the board in any two-year period, the board shall obtain an affirmative vote of the majority of the landowners as determined by section 61-21-16 prior to obligating the district for such costs.

SECTION 41. AMENDMENT. Section 65-14-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-14-01. Employee information program. Each employer shall implement an employee information program designed to inform employees about hazardous substances to which they are exposed. This information must include the nature of the hazards, appropriate work practices, protective measures, and emergency procedures. "Hazardous substance" means a chemical or substance or mixture of chemicals or substances which is defined as a hazardous substance under the federal Comprehensive Environmental ~~Responses~~ Response, Compensation, and Liability Act of 1980, as amended [Pub. L. 96-510; 94 Stat. 2767; 42 U.S.C. 9601 et seq.] and meets or exceeds the listed reportable quantity for that substance.

SECTION 42. REPEAL. Section 35-20-10 of the North Dakota Century Code is hereby repealed.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 74

HOUSE BILL NO. 1331
(Representatives A. Olson, Myrdal)
(Senator Vosper)

EFFECTIVE DATE OF VARIOUS BILLS

AN ACT to create and enact section 14 to House Bill No. 1172, section 2 to House Bill No. 1321, section 2 to Senate Bill No. 2047, and section 2 to Senate Bill No. 2458, as approved by the fiftieth legislative assembly, to provide an effective date for those bills, relating to radio communication functions by the director of institutions and telecommunication functions by the office of central data processing, compensation and expenses for witnesses in criminal actions, investigations on Indian reservations by the attorney general, and court costs; and to declare an emergency.

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

SECTION 1. Section 14 to House Bill No. 1172, as approved by the fiftieth legislative assembly, is hereby created and enacted to read as follows:

SECTION 14. EFFECTIVE DATE. Section 6 of this Act becomes effective on January 1, 1988.

SECTION 2. Section 2 to House Bill No. 1321, as approved by the fiftieth legislative assembly, is hereby created and enacted to read as follows:

SECTION 2. EFFECTIVE DATE. This Act becomes effective on January 1, 1988.

SECTION 3. Section 2 to Senate Bill No. 2047, as approved by the fiftieth legislative assembly, is hereby created and enacted to read as follows:

SECTION 2. EFFECTIVE DATE. This Act becomes effective on January 1, 1988.

SECTION 4. Section 2 to Senate Bill No. 2458, as approved by the fiftieth legislative assembly, is hereby created and enacted to read as follows:

SECTION 2. EFFECTIVE DATE. This Act becomes effective on January 1, 1988.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 7, 1987
Filed April 9, 1987

CHAPTER 75

**HOUSE BILL NO. 1311
(Representative J. DeMers)
(Senator Holmberg)**

MARTIN LUTHER KING DAY

AN ACT to create and enact a new section to chapter 1-03 of the North Dakota Century Code, relating to designation of the third Monday in January as Martin Luther King Day.

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

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

Martin Luther King Day. The third Monday of January of each year is designated as Martin Luther King Day in recognition of the life, legacy, and dream of Martin Luther King, Jr.

Approved March 13, 1987
Filed March 16, 1987

CHAPTER 76

SENATE BILL NO. 2070
(Legislative Council)

(Interim Legislative Procedure and Arrangements Committee)

GIFTS TO STATE OR SUBDIVISION

AN ACT to provide for a system for recording state property having historical or artistic significance and for reviewing the artistic value of such property; to create and enact a new subsection to section 54-54-05 of the North Dakota Century Code, relating to the duties of the state council on the arts; to amend and reenact sections 1-08-04, 48-11-03, and 55-01-04 of the North Dakota Century Code, relating to the authority of certain state entities to accept gifts; and to declare an emergency.

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

SECTION 1. State property having historical or artistic significance - Responsibilities of state historical board and council on the arts - Review and advice on property for exhibition. Except for the board of higher education and state institutions under the jurisdiction of the board, every state official or entity that, on behalf of the state, holds, acquires, or receives property having historical or artistic significance shall document and inventory that property on forms furnished by the state historical board. One copy of the completed form must be retained in the office of that official or entity and one copy must be filed with the state historical board. The information filed with the board must include a description of the property, the identity of the donor if acquired by gift, the date the property was acquired or received, any conditions on acceptance of the property if given by gift, and appropriate evidence of ownership. The information must also indicate whether the property is intended for permanent or long-term exhibition on the capitol grounds or in public areas in the state capitol. With respect to property intended for permanent or long-term exhibition on the capitol grounds or in public areas in the state capitol, the state historical board shall notify the state council on the arts. The council on the arts shall advise the capitol grounds planning commission with respect to permanent or long-term exhibition of such property on the capitol grounds. The council on the arts shall advise the capitol arts and historic preservation advisory committee with respect to permanent or

long-term exhibition of such property in public areas in the state capitol. Prior to transfer of ownership or other disposal of property documented and inventoried under this section, that property must be offered to the state historical board for inclusion in its historical collections.

SECTION 2. AMENDMENT. Section 1-08-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1-08-04. Authorizing state and counties, cities, and other municipalities to accept devises, bequests, legacies, and gifts. Devises, legacies, bequests, and gifts may be lawfully made to the state or any county, township, city, school district, or park district of the state of North Dakota. The title to any property, ~~real, personal, or mixed,~~ which shall be that is devised, bequeathed, or given to the state, or to any such county, township, city, school district, or park district, for the use and benefit thereof, ~~shall vest vests~~ in the state or such county, township, city, school district, or park district, to be by it held in trust under the terms and conditions provided for in ~~such the~~ devise, legacy, bequest, or gift. Unless otherwise authorized by the will or other instrument providing for ~~such the~~ devise, legacy, bequest, or gift, no part of ~~such the~~ property, nor of the income therefrom, shall may be diverted or used for any other purpose. The officers charged with the management of the fiscal affairs of the state, ~~or may only accept and receive a~~ devise, legacy, bequest, or gift that is consistent with the statutory responsibilities of the specific officer involved. The officers charged with the fiscal management of any county, township, city, school district, or park district, to whom may accept and receive any such devise, legacy, bequest, or gift is made, shall be authorized to accept, receive, and. The officer who accepts and receives the devise, legacy, bequest, or gift shall administer the same for and on behalf of the state, or any such county, township, city, school district, or park district.

SECTION 3. AMENDMENT. Section 48-11-03 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

48-11-03. Special operating fund - Acceptance of gifts - Continuing appropriation. A special operating fund for the capitol arts and historic preservation advisory committee must be maintained in the state treasury. The committee may accept any federal funds and any ~~other gifts and~~ money from any source that may be offered to the committee. All moneys received by the committee as gifts, donations, grants, or bequests, including all federal moneys, must be deposited in the special operating fund. All expenditures from the fund must be made on vouchers, approved and signed by the chairman or secretary of the committee and submitted to the office of management and budget for approval and payment. The committee may expend funds in the special operating fund, not to exceed ten thousand dollars per biennium, for improvements, furnishings, decorations, and fixtures in and ~~around~~ the state capitol and other state buildings, facilities, and properties. Other than gifts of

money, the committee may accept gifts of property only relating to the physical and aesthetic features of the interior of buildings on the capitol grounds.

SECTION 4. A new subsection to section 54-54-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

To determine the artistic value of property as provided by section 1 of this Act.

SECTION 5. AMENDMENT. Section 55-01-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-01-04. Acceptance of gifts, grants, devises, bequests, donations, and assignments - Deposited with the state treasurer - How expended. Whenever The state historical board may only receive and accept any grant, devise, bequest, donation, gift, or assignment of money, bonds, or choses in action, or of any property, real or personal, is made to the state historical board or either division under it, such for any purpose consistent with the statutory responsibilities of the board. The board shall must receive and accept the same, and the right and title thereto, in the name of the state. All moneys coming into the hands of the board as donations, gifts, grants, and bequests, unless by the terms of the donation, gift, grant, or bequest such the moneys are required to be maintained in another manner, shall must be maintained within the state treasury. All rent, interest, or income from land, money, or property received by the board by donation, gift, grant, or bequest, shall must also be maintained within the state treasury unless by the terms of their acquisition such the moneys are required to be maintained in a different manner. Such The moneys shall must be paid out for the purposes prescribed by the donor upon the approval of the state historical board by warrant-check prepared by the office of management and budget.

SECTION 6. EMERGENCY. This Act is declared to be an emergency measure and is in effect upon its filing with the secretary of state or on a date specified in this Act.

Approved March 12, 1987
Filed March 16, 1987