Sixty-first
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1436

Introduced by

Representatives Carlson, Boucher, Monson

Senators Stenehjem, O'Connell

A BILL for an Act to amend and reenact sections 1-02-06.1, 1-02-09, and 1-02-09.2, subsection 1 of section 4-05.1-16, subsection 6 of section 4-35-30, section 15-10-12.1, subsection 13 of section 16.1-01-14, sections 16.1-01-17, 23-12-10.2, 26.1-21-07, 28-32-03, 28-32-06, 28-32-07, 28-32-10, 28-32-15, 28-32-17, 28-32-18, 28-32-18.1, 28-32-19, and 28-32-20, subsection 4 of section 28-32-42, subsection 3 of section 34-11.1-01, sections 44-04-18.6, 44-08-18, 46-02-05, 46-02-10, 46-03-10, 46-03-11, 46-03-11.1, 46-03-11.2, 46-03-15, 46-03-19, and 48-08-04, subsection 4 of section 49-23-03, sections 50-24.1-02.5, 54-03-19.2, 54-03-28, and 54-03.1-02, subsection 4 of section 54-06-04, section 54-06-15, subsection 4 of section 54-06-25, sections 54-21-17.1, 54-35-02, 54-35-02.2, 54-35-03, 54-35-06, 54-35-11, 54-35-12, 54-35-13, 54-35-15, and 54-35-19, subsection 2 of section 54-35-22, and sections 54-35-23, 54-35-24, 54-35.2-03, 54-44.1-12.1, 54-55-01, 54-59-11, and 65-02-01.1 of the North Dakota Century Code, relating to differentiation between the legislative council and legislative services as an agency of the legislative branch.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 1-02-06.1 of the North Dakota Century Code is amended and reenacted as follows:

1-02-06.1. Journal entry rule - Presumption of validity of legislation. A bill or resolution passed by the senate and the house of representatives of the legislative assembly as evidenced by the journals of the senate and house is presumed to be the bill or resolution that is signed by the presiding officers of the senate and house, presented to the governor, and filed with the secretary of state. If there is a difference between versions of a bill, ~~the~~ legislative ~~council staff~~ <u>services</u> shall direct the publisher of the code to publish the law according to this section. The law as published must be presumed valid until determined otherwise by an appropriate court.

SECTION 2. AMENDMENT. Section 1-02-09 of the North Dakota Century Code is amended and reenacted as follows:

1-02-09. Irreconcilable statutes or constitutional amendments passed during the same session.

1. Whenever the provisions of two or more statutes passed during the same session of the legislative assembly are irreconcilable, the statute latest in date of final passage by the legislative assembly, irrespective of the date on which it was approved or allowed to become law by the governor or of its effective date, prevails from the time it becomes effective. However, whenever a provision of one or more statutes repeals a law and a provision of one or more statutes passed later during the same session of the legislative assembly amends that law, the provision amending the law prevails from the time it becomes effective only if:
   a. ~~The legislative council~~ Legislative services determines the intent of the legislative assembly was to retain the amended law as an independent law; or
   b. The provision amending the law has an earlier effective date than the effective date of the provision repealing the law, in which case the amendment prevails from its effective date until the effective date of the provision repealing the law.
2. Whenever two or more concurrent resolutions, adopted during the same session of the legislative assembly, propose to create or amend, or amend and repeal, the same section of the Constitution of North Dakota, the secretary of state, in consultation with the attorney general, shall determine if the proposals are irreconcilable, and if they are irreconcilable, the resolution last adopted by the legislative assembly, as determined by ~~the~~ legislative ~~council or its designee~~ services, must be placed on the ballot for the appropriate election for approval or disapproval by the electorate.

SECTION 3. AMENDMENT. Section 1-02-09.2 of the North Dakota Century Code is amended and reenacted as follows:

1-02-09.2. Reconciliation of conflicting proposed amendments to the constitution. If two or more concurrent resolutions propose to amend or create the same section of the Constitution of North Dakota, and the proposed sections are reconcilable, ~~the~~

legislative ~~council, or its designee,~~ services shall prepare a reconciled text and submit it to the secretary of state for inclusion in the appropriate ballot.

SECTION 4. AMENDMENT. Subsection 1 of section 4-05.1-16 of the North Dakota Century Code is amended and reenacted as follows:

1. The state board of agricultural research and education consists of:
   a. The president of North Dakota state university or the president's designee;
   b. The vice president of agricultural affairs at North Dakota state university, who serves in an ex officio nonvoting capacity;
   c. The administrator of the agricultural experiment station, who serves in an ex officio nonvoting capacity;
   d. The five persons appointed to the agricultural consultation board by the ag coalition;
   e. The five persons appointed to the agricultural consultation board by the extension service's multicounty program units;
   f. The agriculture commissioner, who serves in an ex officio nonvoting capacity;
   g. The director of the North Dakota state university extension service, who serves in an ex officio nonvoting capacity; and
   h. Two members of the legislative assembly appointed by the chairman of the legislative council. The chairman shall appoint one member from each political faction. The terms of members are for two years, and members may be reappointed. ~~The legislative council~~ Legislative services shall pay the compensation and expense reimbursement for the legislative members.

SECTION 5. AMENDMENT. Subsection 6 of section 4-35-30 of the North Dakota Century Code is amended and reenacted as follows:

6. The board may use not more than fifteen percent of the funds under its supervision for administrative purposes, including the cost of contracting for administrative services and reimbursement of board member expenses. The members of the board who are members of the legislative assembly are entitled to compensation from ~~the~~ legislative ~~council~~ services for attendance at board meetings at the rate provided for members of the legislative assembly for attendance at interim

committee meetings and are entitled to reimbursement for expenses incurred in attending the meetings in the amounts provided by law for other state officers.

SECTION 6. AMENDMENT. Section 15-10-12.1 of the North Dakota Century Code is amended and reenacted as follows:

15-10-12.1. Acceptance of buildings and campus improvements - Legislative approval. The state board of higher education may authorize campus improvements and building maintenance on land under the control of the board which are financed by donations, gifts, grants, and bequests if the cost of the improvement or building maintenance is not more than three hundred eighty-five thousand dollars. The consent of the legislative assembly is required for construction of any building financed by donations, gifts, grants, and bequests and for campus improvements or building maintenance financed by donations, gifts, grants, and bequests if the cost of the improvements or maintenance is more than three hundred eighty-five thousand dollars. During the time the legislative assembly is not in session, except for the six months preceding the convening of a regular session, and unless otherwise restricted by previous legislative action or other law, the state board of higher education, with the approval of the budget section of the legislative council, may authorize the use of land under the control of the board and construct buildings financed by donations, gifts, grants, and bequests and campus improvements and building maintenance financed by donations, gifts, grants, and bequests and if the cost of the improvement or maintenance is more than three hundred eighty-five thousand dollars. The budget section approval must include a specific dollar limit for each building, campus improvement project, or maintenance project. The state board of higher education may authorize the sale of any real property or buildings which an institution of higher learning has received by gift or bequest. The board shall prescribe such conditions for the sale of the property as it determines necessary. The conditions must include requiring an appraisal and public auction or advertisement for bids, unless the gift instrument requires a different process. If the state board of higher education submits a request for campus improvements, building maintenance, or to construct buildings under this section to the budget section for approval, ~~the~~ legislative ~~council~~ <u>services</u> shall notify each member of the legislative assembly of the date of the budget section meeting at which the request will be considered and provide a copy of the meeting agenda to each member of the legislative assembly. The chairman of the

budget section shall allow any member of the legislative assembly an opportunity to present testimony to the budget section regarding any such request.

SECTION 7. AMENDMENT. Subsection 13 of section 16.1-01-14 of the North Dakota Century Code is amended and reenacted as follows:

13. Believe this measure is constitutional and intend it to be so. Therefore, even if a court holds any portion of this measure unconstitutional, thereby substituting its own judgment for that we have expressed in enacting this measure, ~~the~~ legislative ~~council~~ services shall require the publisher of the North Dakota Century Code to include the text of this measure, in the manner as if not so held but with appropriate annotation, to stand as a testament to our expressed will, and as a memorial to the defiance of that will by whatever court holds this measure unconstitutional. Furthermore, if any part of this measure is held unconstitutional, we intend that the rest of it be deemed effective, to the maximum extent permitted under section 1-02-20.

SECTION 8. AMENDMENT. Section 16.1-01-17 of the North Dakota Century Code is amended and reenacted as follows:

16.1-01-17. Estimated fiscal impact of an initiated measure. At least ninety days before a statewide election at which an initiated measure will be voted upon, ~~the~~ legislative ~~council~~ services shall coordinate the determination of the estimated fiscal impact of the initiated measure. Upon notification from the secretary of state that signed petitions have been submitted for placement of an initiated measure on the ballot, the legislative council shall hold hearings, receive public testimony, and gather information on the estimated fiscal impact of the measure. Each agency, institution, or department shall provide information requested in the format and timeframe prescribed by the legislative council or its designated committee for identifying the estimated fiscal impact of an initiated measure. At least thirty days ~~prior to~~ before the public vote on the measure, the legislative council shall submit a statement of the estimated fiscal impact of the measure to the secretary of state. Upon receipt, the secretary of state shall include a notice within the analysis required by section 16.1-01-07 specifying where copies of the statement of the estimated fiscal impact can be obtained. Within thirty days of the close of the first complete fiscal year after the effective date of an initiated measure approved by the voters, the agencies, institutions, or departments that provided the estimates of the fiscal

impact of the measure to the legislative council under this section shall submit a report to the legislative council on the actual fiscal impact for the first complete fiscal year resulting from provisions of the initiated measure and a comparison to the estimates provided to the legislative council under this section and the legislative council shall issue a report of the actual fiscal impact of the initiated measure.

SECTION 9. AMENDMENT. Section 23-12-10.2 of the North Dakota Century Code is amended and reenacted as follows:

23-12-10.2. Complaints and enforcement - City and county ordinances and home rule charters.

1. State agencies with statutory jurisdiction over a state-owned building or office shall enforce section 23-12-10. These agencies include the fire marshal department, state department of health, department of human services, legislative ~~council~~ services, and office of management and budget. The agencies may mutually agree as to the manner in which enforcement is to be accomplished and may adopt administrative rules to ensure compliance with section 23-12-10, including referral of violations to an appropriate law enforcement agency for enforcement pursuant to section 23-12-11.
2. A city or county ordinance, a city or county home rule charter, or an ordinance adopted under a home rule charter may not provide for less stringent provisions than those provided under sections 23-12-09 through 23-12-11. Nothing in this Act shall preempt or otherwise affect any other state or local tobacco control law that provides more stringent protection from the hazards of environmental tobacco smoke. This subsection does not preclude any city or county from enacting any ordinance containing penal language when otherwise authorized to do so by law.

SECTION 10. AMENDMENT. Section 26.1-21-07 of the North Dakota Century Code is amended and reenacted as follows:

26.1-21-07. Coverage. The amount of coverage afforded to each state agency or political subdivision must be determined by the commissioner based upon the amount of money or property handled and the opportunity for defalcation. The coverage may be greater than but not less than the amount required by law or determined under law for a position. The coverage

for a state legislative or judicial branch agency, however, may be determined by ~~the~~ legislative ~~council~~ services or the supreme court, respectively.

SECTION 11. AMENDMENT. Section 28-32-03 of the North Dakota Century Code is amended and reenacted as follows:

28-32-03. Emergency rules.

1. If the agency, with the approval of the governor, finds that emergency rulemaking is necessary, the agency may declare the proposed rule to be an interim final rule effective on a date no earlier than the date of filing with ~~the~~ legislative ~~council~~ services of the notice required by section 28-32-10.
2. A proposed rule may be given effect on an emergency basis under this section if any of the following grounds exists regarding that rule:
   a. Imminent peril threatens public health, safety, or welfare, which would be abated by emergency effectiveness;
   b. A delay in the effective date of the rule is likely to cause a loss of funds appropriated to support a duty imposed by law upon the agency;
   c. Emergency effectiveness is reasonably necessary to avoid a delay in implementing an appropriations measure; or
   d. Emergency effectiveness is necessary to meet a mandate of federal law.
3. A final rule adopted after consideration of all written and oral submissions respecting the interim final rule, which is substantially similar to the interim final rule, is effective as of the declared effective date of the interim final rule.
4. The agency's finding, and a brief statement of the agency's reasons for the finding, must be filed with ~~the office of the~~ legislative ~~council~~ services with the final adopted emergency rule.
5. The agency shall take appropriate measures to make interim final rules known to every person who may be affected by them.
6. An interim final rule is ineffective one hundred eighty days after its declared effective date unless first adopted as a final rule.

SECTION 12. AMENDMENT. Section 28-32-06 of the North Dakota Century Code is amended and reenacted as follows:

28-32-06. Force and effect of rules. Upon becoming effective, rules have the force and effect of law until amended or repealed by the agency, declared invalid by a final court decision, suspended or found to be void by the administrative rules committee, or determined repealed by ~~the office of the~~ legislative ~~council~~ services because the authority for adoption of the rules is repealed or transferred to another agency.

SECTION 13. AMENDMENT. Section 28-32-07 of the North Dakota Century Code is amended and reenacted as follows:

28-32-07. Deadline for rules to implement statutory change. Any rule change, including a creation, amendment, or repeal, made to implement a statutory change must be adopted and filed with ~~the office of the~~ legislative ~~council~~ services within nine months of the effective date of the statutory change. If an agency needs additional time for the rule change, a request for additional time must be made to the legislative council. The legislative council may extend the time within which the agency must adopt the rule change if the request by the agency is supported by evidence that the agency needs more time through no deliberate fault of its own.

SECTION 14. AMENDMENT. Section 28-32-10 of the North Dakota Century Code is amended and reenacted as follows:

28-32-10. Notice of rulemaking - Hearing date.

1. An agency shall prepare a full notice and an abbreviated notice of rulemaking.
   a. The agency's full notice of the proposed adoption, amendment, or repeal of a rule must include a short, specific explanation of the proposed rule and the purpose of the proposed rule, a determination of whether the proposed rulemaking is expected to have an impact on the regulated community in excess of fifty thousand dollars, identify at least one location where interested persons may review the text of the proposed rule, provide the address to which written comments concerning the proposed rule may be sent, provide the deadline for submission of written comments, provide a telephone number at which a copy of the rules and regulatory analysis may be requested, and, in the case of a substantive rule, provide the time and place set for each oral hearing. The agency's full notice must be filed with ~~the office of the~~ legislative ~~council~~ services, and the agency shall request publication of an abbreviated

newspaper publication notice at least once in each official county newspaper published in this state. The notice filed with ~~the office of the~~ legislative ~~council~~ services must be accompanied by a copy of the proposed rules.

b. The abbreviated newspaper publication of notice must be in a display-type format with a minimum width of one column of approximately two inches [5.08 centimeters] and a depth of from three inches [7.62 centimeters] to four inches [10.16 centimeters] with a headline describing the general topic of the proposed rules. The notice must also include the telephone number or address to use to obtain a copy of the proposed rules, the address to use and the deadline to submit written comments, and the location, date, and time of the public hearing on the rules.

2. The agency shall mail or deliver a copy of the agency's full notice to each member of the legislative assembly whose name appeared as a sponsor or cosponsor of legislation enacted during the most recent session of the legislative assembly which is being implemented by the proposed rule and to each person who has made a timely request to the agency for a copy of the notice. The agency may mail or otherwise provide a copy of the agency's full notice to any person who is likely to be an interested person. The agency shall mail or deliver a copy of the rules to each member of the legislative assembly whose name appeared as a sponsor or cosponsor of legislation enacted during the most recent session of the legislative assembly which is being implemented by the proposed rule and to any person requesting a copy. The agency may charge persons who are not members of the legislative assembly fees for copies of the proposed rule as allowed under section 44-04-18.

3. In addition to the other notice requirements of this subsection, the superintendent of public instruction shall provide notice of any proposed rulemaking by the superintendent of public instruction to each association with statewide membership whose primary focus is elementary and secondary education issues which has requested to receive notice from the superintendent under this subsection and to the superintendent of each public school district in this state, or the president of the school board for school districts that have no superintendent, at least twenty days

before the date of the hearing described in the notice. Notice provided by the superintendent of public instruction under this section must be by first-class mail. However, upon request of a group or person entitled to notice under this section, the superintendent of public instruction shall provide the group or person notice by electronic mail.

4. ~~The legislative council~~ Legislative services shall establish standard procedures for all agencies to follow in complying with the provisions of this section and a procedure to allow any person to request and receive mailed copies of all filings made by agencies pursuant to this section. ~~The legislative council~~ Legislative services may charge an annual fee as established by the administrative rules committee for providing copies of the filings.

5. At least twenty days must elapse between the date of the publication of the notice and the date of the hearing. Within fifteen business days after receipt of a notice under this section, a copy of the notice must be mailed by ~~the~~ legislative ~~council~~ services to any person who has paid the annual fee established under subsection 4.

SECTION 15. AMENDMENT. Section 28-32-15 of the North Dakota Century Code is amended and reenacted as follows:

28-32-15. Filing of rules for publication - Effective date of rules.

1. A copy of each rule adopted by an administrative agency, a copy of each written comment and a written summary of each oral comment on the rule, and the attorney general's opinion on the rule must be filed by the adopting agency with ~~the office of the~~ legislative ~~council~~ services for publication of the rule in the North Dakota Administrative Code.

2. a. Nonemergency rules approved by the attorney general as to legality, adopted by an administrative agency, and filed with ~~the office of the~~ legislative ~~council~~ services and not voided or held for consideration by the administrative rules committee become effective according to the following schedule:

   (1) Rules filed with ~~the~~ legislative ~~council~~ services from August sixteenth through November fifteenth become effective on the immediately succeeding January first.

(2) Rules filed with ~~the~~ legislative ~~council~~ services from November sixteenth through February fifteenth become effective on the immediately succeeding April first.

(3) Rules filed with ~~the~~ legislative ~~council~~ services from February sixteenth through May fifteenth become effective on the immediately succeeding July first.

(4) Rules filed with ~~the~~ legislative ~~council~~ services from May sixteenth through August fifteenth become effective on the immediately succeeding October first.

b. If publication is delayed for any reason other than action of the administrative rules committee, nonemergency rules, unless otherwise provided, become effective when publication would have occurred but for the delay.

c. A rule held for consideration by the administrative rules committee becomes effective on the first effective date of rules under the schedule in subdivision a following the meeting at which that rule is reconsidered by the committee.

SECTION 16. AMENDMENT. Section 28-32-17 of the North Dakota Century Code is amended and reenacted as follows:

28-32-17. Administrative rules committee objection. If the legislative council's administrative rules committee objects to all or any portion of a rule because the committee deems it to be unreasonable, arbitrary, capricious, or beyond the authority delegated to the adopting agency, the committee may file that objection in certified form ~~in the office of the~~ with legislative ~~council~~ services. The filed objection must contain a concise statement of the committee's reasons for its action.

1. ~~The office of the legislative council~~ Legislative services shall attach to each objection a certification of the time and date of its filing and, as soon as possible, shall transmit a copy of the objection and the certification to the agency adopting the rule in question. ~~The office of the legislative council~~ Legislative services also shall ~~also~~ maintain a permanent register of all committee objections.

2. ~~The office of the legislative council~~ Legislative services shall publish an objection filed pursuant to this section in the next issue of the code supplement. In case of a filed committee objection to a rule subject to the exceptions of the definition of rule

in section 28-32-01, the agency shall indicate the existence of that objection adjacent to the rule in any compilation containing that rule.

3. Within fourteen days after the filing of a committee objection to a rule, the adopting agency shall respond in writing to the committee. After receipt of the response, the committee may withdraw or modify its objection.

4. After the filing of a committee objection, the burden of persuasion is upon the agency in any action for judicial review or for enforcement of the rule to establish that the whole or portion thereof objected to is within the procedural and substantive authority delegated to the agency. If the agency fails to meet its burden of persuasion, the court shall declare the whole or portion of the rule objected to invalid and judgment must be rendered against the agency for court costs. These court costs must include a reasonable attorney's fee and must be payable from the appropriation of the agency which adopted the rule in question.

SECTION 17. AMENDMENT. Section 28-32-18 of the North Dakota Century Code is amended and reenacted as follows:

28-32-18. Administrative rules committee may void rule - Grounds - Amendment by agreement of agency and committee.

1. The legislative council's administrative rules committee may find that all or any portion of a rule is void if that rule is initially considered by the committee not later than the fifteenth day of the month before the date of the administrative code supplement in which the rule change is scheduled to appear. The administrative rules committee may find a rule or portion of a rule void if the committee makes the specific finding that, with regard to that rule or portion of a rule, there is:

   a. An absence of statutory authority.

   b. An emergency relating to public health, safety, or welfare.

   c. A failure to comply with express legislative intent or to substantially meet the procedural requirements of this chapter for adoption of the rule.

   d. A conflict with state law.

   e. Arbitrariness and capriciousness.

   f. A failure to make a written record of its consideration of written and oral submissions respecting the rule under section 28-32-11.

2. The administrative rules committee may find a rule void at the meeting at which the rule is initially considered by the committee or may hold consideration of that rule for one subsequent meeting. Within three business days after the administrative rules committee finds that a rule is void, ~~the office of the~~ legislative ~~council~~ services shall provide written notice of that finding and the committee's specific finding under subdivisions a through f of subsection 1 to the adopting agency and to the chairman of the legislative council. Within fourteen days after receipt of the notice, the adopting agency may file a petition with the chairman of the legislative council for review by the legislative council of the decision of the administrative rules committee. If the adopting agency does not file a petition for review, the rule becomes void on the fifteenth day after the notice from ~~the office of the~~ legislative ~~council~~ services to the adopting agency. If within sixty days after receipt of the petition from the adopting agency the legislative council has not disapproved by motion the finding of the administrative rules committee, the rule is void.

3. An agency may amend or repeal a rule or create a related rule if, after consideration of rules by the administrative rules committee, the agency and committee agree that the rule amendment, repeal, or creation is necessary to address any of the considerations under subsection 1. A rule amended, repealed, or created under this subsection is not subject to the other requirements of this chapter relating to adoption of administrative rules and may be published by ~~the~~ legislative ~~council~~ services as amended, repealed, or created. If requested by the agency or any interested party, a rule amended, repealed, or created under this subsection must be reconsidered by the administrative rules committee at a subsequent meeting at which public comment on the agreed rule change must be allowed.

SECTION 18. AMENDMENT. Section 28-32-18.1 of the North Dakota Century Code is amended and reenacted as follows:

28-32-18.1. Administrative rules committee review of existing administrative rules.

1. Upon request by the administrative rules committee, an administrative agency shall brief the committee on its existing administrative rules and point out any provisions

that appear to be obsolete and any areas in which statutory authority has changed or been repealed since the rules were adopted or amended.

2. An agency may amend or repeal a rule without complying with the other requirements of this chapter relating to adoption of administrative rules and may resubmit the change to ~~the~~ legislative ~~council~~ services for publication provided:

   a. The agency initiates the request to the administrative rules committee for consideration of the amendment or repeal;

   b. The agency provides notice to the regulated community, in a manner reasonably calculated to provide notice to those persons interested in the rule, of the time and place the administrative rules committee will consider the request for amendment or repeal of the rule; and

   c. The agency and the administrative rules committee agree the rule amendment or repeal eliminates a provision that is obsolete or no longer in compliance with law and that no detriment would result to the substantive rights of the regulated community from the amendment or repeal.

SECTION 19. AMENDMENT. Section 28-32-19 of the North Dakota Century Code is amended and reenacted as follows:

28-32-19. Publication of administrative code and code supplement.

1. ~~The office of the legislative council~~ Legislative services shall compile, index, and publish all rules filed pursuant to this chapter in a publication which must be known as the North Dakota Administrative Code, in this chapter referred to as the code. The code ~~must~~ also must contain all objections filed with ~~the office of the~~ legislative ~~council~~ services by the administrative rules committee pursuant to section 28-32-17. The code must be printed or otherwise duplicated in looseleaf form. ~~The office of the legislative council~~ Legislative services shall revise all or part of the code as often as ~~the~~ legislative ~~council deems~~ services determines necessary.

2. ~~The office of the legislative council~~ Legislative services may prescribe a format, style, and arrangement for rules which are to be published in the code and may refuse to accept the filing of any rule that is not in substantial compliance therewith. In arranging rules for publication, ~~the office of the~~ legislative ~~council~~ services may make such corrections in spelling, grammatical construction, format, and

punctuation of the rules as deemed proper. ~~The office of the legislative council~~ Legislative services shall keep and maintain a permanent code of all rules filed, including superseded and repealed rules, which must be open to public inspection during office hours.

3. ~~The office of the legislative council~~ Legislative services shall compile and publish the North Dakota Administrative Code supplement according to the schedule of effective dates of rules in section 28-32-15.

   a. The code supplement must contain all rules that have been filed with ~~the office of the~~ legislative ~~council~~ services or which have become effective since the compilation and publication of the preceding issue of the code supplement.

   b. The code supplement must contain all objections filed with ~~the office of the~~ legislative ~~council~~ services by the administrative rules committee pursuant to section 28-32-17.

   c. The code supplement must be printed or duplicated in the same style as the code so as to permit changes to be inserted as pages in the code in lieu of the pages containing superseded material and to permit additions to the code.

4. ~~The office of the legislative council~~ Legislative services, with the consent of the adopting agency, may omit from the code or code supplement any rule the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient, if the rule in printed or duplicated form is made available on application to the agency, and if the code or code supplement contains a notice stating the general subject matter of the omitted rule and stating how a copy may be obtained.

5. The code must be arranged, indexed, and printed or duplicated in a manner to permit separate publication of portions thereof relating to individual agencies. An agency may print as many copies of such separate portions of the code as it may require. If ~~the office of the~~ legislative ~~council~~ services does not publish the code supplement due to technological problems or lack of funds, the agency whose rules would have been published in the code supplement shall provide a copy of

the rules to any person upon request. The agency may charge a fee for a copy of the rules as allowed under section 44-04-18.

SECTION 20. AMENDMENT. Section 28-32-20 of the North Dakota Century Code is amended and reenacted as follows:

28-32-20. Printing, sales, and distribution of code and code supplement.

1. The secretary of state shall distribute the code and code supplement and shall distribute copies of the code, revisions, and the code supplement without charge to the following:
   a. Governor, one copy.
   b. Attorney general, one copy.
   c. Each supreme court judge, one copy.
   d. Each district court judge, one copy.
   e. Each county auditor of this state, for the use of county officials and the public, one copy.
   f. Supreme court library, one copy.
   g. State library, one copy.
   h. Law library of the university of North Dakota, one copy.
   i. Each of the five depository libraries in this state, one copy, upon request.
   j. Secretary of state, one copy.
   k. Legislative ~~council~~ <u>services</u>, four copies.
   l. Each member of the legislative assembly, one copy, upon request.
2. ~~The office of the legislative council~~ <u>Legislative services</u>, each county auditor in the state, and the librarians for the supreme court library, the state library, the university of North Dakota law library, and the five depository libraries as designated according to subsection 1 and section 54-24-09 shall maintain a complete, current set of the code, including revisions and the code supplement.
3. The secretary of state shall make copies of and subscriptions to the code and code supplement available to any person upon payment of the appropriate subscription fee.
4. ~~The office of the legislative council~~ <u>Legislative services</u> shall determine the appropriate fee for subscribing to the code and code supplement.

5. All fees collected by the secretary of state must be deposited in the general fund of the state treasury.

6. The administrative code, revisions to the administrative code, and the code supplement must be considered sixth-class printing under sections 46-02-04 and 46-02-09.

SECTION 21. AMENDMENT. Subsection 4 of section 28-32-42 of the North Dakota Century Code is amended and reenacted as follows:

4. An appeal shall be taken by serving a notice of appeal and specifications of error specifying the grounds on which the appeal is taken, upon the administrative agency concerned, upon the attorney general or an assistant attorney general, and upon all the parties to the proceeding before the administrative agency, and by filing the notice of appeal and specifications of error together with proof of service of the notice of appeal, and the undertaking required by this section, with the clerk of the district court to which the appeal is taken. In an appeal of an agency's rulemaking action, only the administrative agency concerned, the attorney general, or an assistant attorney general, as well as ~~the~~ legislative ~~council~~ <u>services</u>, need to be notified.

SECTION 22. AMENDMENT. Subsection 3 of section 34-11.1-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Employee" means any person, whether employed, appointed, or under contract, providing services for the state, county, city, or other political subdivision, for which compensation is paid. "Employee" also includes a person subject to the civil service or merit system or civil service laws of the state government, governmental agency, or a political subdivision. "Employee" does not include:
   a. A person elected to public office in the state or in a political subdivision.
   b. A member of ~~the~~ legislative ~~council staff~~ <u>services</u>.
   c. A person holding an appointive statutory office.
   d. One deputy or principal assistant for each elected official or appointive statutory official.
   e. One secretary for each elected or appointive statutory official.
   f. All members of the governor's staff.

SECTION 23. AMENDMENT. Section 44-04-18.6 of the North Dakota Century Code is amended and reenacted as follows:

44-04-18.6. Access to legislative records and information. The following records, regardless of form or characteristic, of or relating to the legislative council, legislative services, the legislative assembly, the house of representatives, the senate, or a member of the legislative assembly are not subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota: a record of a purely personal or private nature, a record that is ~~attorney~~ legislative services work product or is ~~attorney-client~~ legislative services-client communication, a record that reveals the content of private communications between a member of the legislative assembly and any person, and, except with respect to a governmental entity determining the proper use of telephone service, a record of telephone usage which identifies the parties or lists the telephone numbers of the parties involved. This section does not apply to any record distributed at a meeting subject to section 44-04-19 and section 5 of article XI of the Constitution of North Dakota.

SECTION 24. AMENDMENT. Section 44-08-18 of the North Dakota Century Code is amended and reenacted as follows:

44-08-18. Officials and employees of agencies located in capitol building responsible for keys issued to them - Return upon termination of employment - Agency head responsibility. Every elected and appointed state official and all state employees employed by or administering any agency, department, board, commission, or other governmental organization with offices located in the state capitol building are responsible for the safekeeping and return of keys allowing entrance to any of such offices or to the capitol building proper. Each official or employee ~~shall~~, upon or ~~prior to~~ before termination of employment in the state capitol, shall return any and all keys which may have been issued to the official or employee by the highway patrol or by ~~the~~ legislative ~~council~~ services to the person in charge of such keys in the office or department in which the official or employee was employed. The person in charge, or the person's designee, shall see to the return of the keys to the highway patrol in a manner provided by rules and regulations which must be promulgated by the highway patrol. Failure to return a key must be handled as provided in section 54-06-15.

SECTION 25. AMENDMENT. Section 46-02-05 of the North Dakota Century Code is amended and reenacted as follows:

46-02-05. Proposals for printing - Classifications 1, 2, and 4 - Form, style, quantity, timing specifications. The office of management and budget, at least two months immediately preceding each regular session of the legislative assembly, shall invite sealed bids for doing all printing constituting each of classifications 1, 2, and 4, required by the legislative assembly for the two succeeding years commencing with the first day of December next following the date of the contract. The invitation for bids for the classes of printing under this section shall include the specifications for form, style, quantity, and timing in accordance with the rules of the senate and house of representatives of the previous legislative session or as directed by ~~the~~ legislative ~~council~~ services. All bids must specify the price and cost for which the printing work will be performed and the stock furnished.

SECTION 26. AMENDMENT. Section 46-02-10 of the North Dakota Century Code is amended and reenacted as follows:

46-02-10. Printing and binding done without unnecessary delay - Time within which laws and public documents must be delivered - How extension granted.

1. Each contractor under ~~the provisions of~~ this chapter, promptly and without unnecessary delay, shall execute all orders issued to that contractor by the legislative assembly, either branch thereof, or by ~~the~~ legislative ~~council~~ services, or by the office of management and budget on behalf of the executive officers of the state.
2. Volumes of public documents must be delivered to the secretary of state in accordance with the deadline provided in the contract for printing. The session laws must be completed and delivered to the secretary of state in accordance with the deadline provided in the contract for printing.
3. ~~The legislative council~~ Legislative services, with the assistance of the secretary of state, shall furnish, with reasonable expedition, ~~furnish~~ the printing contractor with true and correct copies of the laws and resolutions to be contained in the session laws and copy for the index to the session laws.
4. The office of management and budget, with the concurrence of ~~the~~ legislative ~~council~~ services in the case of a contractor for the printing of the session laws or journals, may extend, for good cause shown, ~~extend~~ the time for the execution of any printing contract.

SECTION 27. AMENDMENT. Section 46-03-10 of the North Dakota Century Code is amended and reenacted as follows:

46-03-10. Arranging and correcting laws. In arranging the laws, memorials, and resolutions for publication, ~~the~~ legislative ~~council~~ services shall make such corrections in orthography, grammatical construction, and punctuation of the same as in its judgment are proper. When any law published in the code contains a reference to customary weights and measures, the equivalent weights and measures of the metric system must be added to the law as an insertion. When any such words or clauses are inserted, the same must be enclosed in brackets. In arranging the laws for publication and in publishing and maintaining the laws, ~~the~~ legislative ~~council~~ services may change statutory references to numbers and letters to correct references to redesignated or repealed chapters, sections, or portions of sections and change statutory references to institutions, agencies, offices, and officers to be consistent with other statutory usage and constitutional provisions.

SECTION 28. AMENDMENT. Section 46-03-11 of the North Dakota Century Code is amended and reenacted as follows:

46-03-11. Publication of session laws and pocket supplements. The secretary of state and ~~the~~ legislative ~~council~~ services shall correct ministerial or clerical errors and supervise the publication of the session laws and pocket part supplements to this code in a manner and form prescribed by ~~the~~ legislative ~~council~~ services, correlating each year's laws with this code.

SECTION 29. AMENDMENT. Section 46-03-11.1 of the North Dakota Century Code is amended and reenacted as follows:

46-03-11.1. Publication of Constitution of North Dakota - Numbering and arrangement. The Constitution of North Dakota must be published in a format that will correlate and integrate all constitutional provisions in a numbering arrangement that avoids ambiguity and duplication and that aids in placing constitutional amendments into the constitution. The Constitution of North Dakota, as presently numbered and arranged, must be republished in this new format by ~~the~~ legislative ~~council~~ services. The publication of the constitution under the format authorized by this section must be accomplished when the code volume containing the constitution is replaced.

SECTION 30. AMENDMENT. Section 46-03-11.2 of the North Dakota Century Code is amended and reenacted as follows:

46-03-11.2. Publication of the century code. ~~The legislative council~~ Legislative services may establish specifications for publication of this code and contract with a publisher with respect to editorial, information processing, and publication services. ~~The legislative council~~ Legislative services may continue any agreement with the publisher and may contract for continuing editorial work and publication services to assure continuity in editorial preparation, printing, and binding of supplements and replacement volumes of the code as long as ~~the council deems~~ legislative services determines it to the advantage and best interests of the state. Chapters 46-01 and 46-02 do not apply to any contract under this section.

SECTION 31. AMENDMENT. Section 46-03-15 of the North Dakota Century Code is amended and reenacted as follows:

46-03-15. Authentication of session laws. All laws contained in the session laws must be printed or published with the word "approved" and the date of approval and with the word "filed" and the date of filing. In each authenticated volume of the session laws there must be a general certificate made by the secretary of state and ~~the~~ legislative ~~council~~ services to the effect that all laws, memorials, and resolutions contained therein are correct copies of the originals in the office of the secretary of state.

SECTION 32. AMENDMENT. Section 46-03-19 of the North Dakota Century Code is amended and reenacted as follows:

46-03-19. When documents officially printed - Faith and credit given. All laws, journals, and documents printed and published by any contractor under this title, and duly certified by the secretary of state and ~~the~~ legislative ~~council~~ services as provided in section 46-03-15 or rules of the senate and house of representatives, are deemed officially to be printed and published, and full faith and credit must be given to them as such.

SECTION 33. AMENDMENT. Section 48-08-04 of the North Dakota Century Code is amended and reenacted as follows:

48-08-04. Use of legislative assembly rooms and halls. During the interim between legislative sessions, the committee rooms, halls, passageways, and other space in the capitol used by the legislative assembly may not be used without authorization of ~~the~~ legislative ~~council or its designee~~ services.

SECTION 34. AMENDMENT. Subsection 4 of Section 49-23-03 of the North Dakota Century Code is amended and reenacted as follows:

4. A nonprofit corporation shall govern the notification center. The initial incorporators of the corporation may solicit bids for any services provided for the operation of the center. The corporation shall provide advance notice of the first organizational meeting by publication in qualified legal newspapers and in appropriate trade journals and by written notice to all appropriate trade associations.

a. The nonprofit corporation must be incorporated by seventeen initial incorporators, with one member representing the house of representatives and one member representing the senate appointed by the legislative council, one member representing telecommunications companies offering local exchange service to fewer than fifty thousand subscribers, one member representing telecommunications companies offering local exchange service to fifty thousand or more subscribers, one member representing rural water systems, one member representing rural electric cooperatives, one member representing investor-owned electric utilities, one member representing investor-owned natural gas utilities, one member representing cable television systems, one member representing cities with a population of fewer than five thousand, one member representing cities with a population of at least five thousand, one member representing counties, one member representing underground interstate carriers of gas, one member representing interstate carriers of petroleum, one member representing interstate carriers of telecommunications services, one member representing contractors who perform excavation services, and one member representing the production sector of the American petroleum institute. The initial incorporators must represent and be designated by operators, excavators, and other persons eligible to participate in the center. The legislative members are entitled to the same compensation and expenses as provided for members of committees of the legislative council. ~~The legislative council~~ Legislative services shall pay the compensation for the legislative members.

b. The initial incorporators shall establish, before August 1, 1996, a board of directors of the nonprofit corporation which consists of eight members representing the participants in the center. The board shall establish a

competitive bidding procedure to select a vendor to provide the notification service, establish a procedure by which members of the center share the costs of the center on a fair, reasonable, and nondiscriminatory basis, and do all other things necessary to implement the purpose of the center. Any agreement between the center and a vendor for the notification service may be modified from time to time by the board, and any agreement shall be reviewed by the board at least once every three years, with an opportunity to receive new bids, if desired, by the board. An operator may submit a bid and be selected to contract to provide the notification center service.

c. Members of the board and any of its agents are immune from any liability of any kind based on any acts or omissions in the course of the performance of responsibilities in an official capacity except for bodily injury arising out of accidents caused by or contributed to by the negligence of the board member or agent.

d. The board shall aid the state's attorneys of the various counties in the enforcement of this chapter and the prosecution of any violations. The board may institute a civil action for an injunction to enjoin violations of this chapter without proof that anyone suffered actual damages.

e. The notification center must be in operation by March 1, 1998.

SECTION 35. AMENDMENT. Section 50-24.1-02.5 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-02.5. Effect of purchase of insurance on disqualifying transfer.

1. An individual who secures and maintains insurance that covers the cost of substantially all necessary medical care, including necessary care in a nursing home and necessary care for an individual who qualifies for admission to a nursing home but receives care elsewhere, for at least thirty-six months after the date an asset is disposed of, may demonstrate that the asset was disposed of exclusively for a purpose other than to qualify for medical assistance by providing proof of that insurance.

2. If purchased after July 31, 2003, the insurance coverage under this section must include home health care coverage, assisted living coverage, basic care coverage,

and skilled nursing facility coverage. The coverage required under this subsection must include a daily benefit equal to at least one and fifty-seven hundredths times the average daily cost of nursing care for the year in which the policy was issued and an aggregate benefit equal to at least one thousand ninety-five times that daily benefit.

3. This section applies only to policies purchased before the effective date of an approved amendment to the state plan for medical assistance that provides for a qualified state long-term care insurance partnership under section 1917(b) of the Social Security Act [42 U.S.C. 1396p].

4. The department of human services shall certify to ~~the~~ legislative ~~council~~ services the effective date described in subsection 3.

SECTION 36. AMENDMENT. Section 54-03-19.2 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 37. AMENDMENT. Section 54-03-28 of the North Dakota Century Code is amended and reenacted as follows:

54-03-28. Health insurance mandated coverage of services - Cost-benefit analysis requirement.

1. A legislative measure mandating health insurance coverage of services or payment for specified providers of services may not be acted on by any committee of the legislative assembly unless the measure is accompanied by a cost-benefit analysis provided by ~~the~~ legislative ~~council~~ services. Factors to consider in this analysis include:
   a. The extent to which the proposed mandate would increase or decrease the cost of the service.
   b. The extent to which the proposed mandate would increase the appropriate use of the service.
   c. The extent to which the proposed mandate would increase or decrease the administrative expenses of insurers and the premium and administrative expenses of insureds.
   d. The impact of the proposed mandate on the total cost of health care.
2. A legislative measure mandating health insurance coverage of services or payment for specified providers of services may not be acted on by any committee of the legislative assembly unless the measure as recommended by the committee provides:
   a. The measure is effective through June thirtieth of the next odd-numbered year following the year in which the legislative assembly enacted the measure, and after that date the measure is ineffective.
   b. The application of the mandate is limited to the public employees health insurance program and the public employee retiree health insurance program. The application of such mandate begins with every contract for health insurance which becomes effective after June thirtieth of the year in which the measure becomes effective.
   c. That for the next legislative assembly, the public employees retirement system shall prepare and request introduction of a bill to repeal the expiration

date and to extend the mandated coverage or payment to apply to accident and health insurance policies. The public employees retirement system shall append to the bill a report regarding the effect of the mandated coverage or payment on the system's health insurance programs. The report must include information on the utilization and costs relating to the mandated coverage or payment and a recommendation on whether the coverage or payment should continue. For purposes of this section, the bill is not a legislative measure mandating health insurance coverage of services or payment for specified providers of services, unless the bill is amended following introduction so as to change the bill's mandate.

3. A majority of the members of the committee, acting through the chairman, has sole authority to determine whether a legislative measure mandates coverage of services under this section.

4. Any amendment made during a legislative session to a measure which mandates health insurance coverage of services may not be acted on by a committee of the legislative assembly unless the amendment is accompanied by a cost-benefit analysis provided by ~~the~~ legislative ~~council~~ <u>services</u>.

5. ~~The legislative council~~ <u>Legislative services</u> shall contract with a private entity, after receiving one or more recommendations from the insurance commissioner, to provide the cost-benefit analysis required by this section. The insurance commissioner shall pay the cost of the contracted services to the entity providing the services.

SECTION 38. AMENDMENT. Section 54-03.1-02 of the North Dakota Century Code is amended and reenacted as follows:

54-03.1-02. Time and place of meeting - Who must attend. In each even-numbered year on the first Monday in the month of December or on a date selected by the legislative council but not earlier than December first nor later than December fifteenth, all persons elected at the previous November general election as members of the succeeding legislative session, and members whose terms do not expire until the first day of December following the next November general election, shall meet in the state capitol in the city of Bismarck, or at such other place as may be designated, at a time designated by the legislative council for the

purpose of conducting an organizational session. The legislative council shall call the organizational session and legislative services shall make such arrangements as may be necessary for ~~its~~ operation of the session.

SECTION 39. AMENDMENT. Subsection 4 of section 54-06-04 of the North Dakota Century Code is amended and reenacted as follows:

4. All officers, departments, boards, commissions, and state institutions that submit reports covering their operations for the two preceding fiscal years to the governor and the secretary of state shall submit copies of their reports in the form and style, using the materials, and having the content prescribed under subsection 2 on or before the first day of December in each year after the regular session of the legislative assembly. If submitted, one copy of each report also must be ~~also~~ distributed to the following agencies:
   a. Legislative ~~council~~ services.
   b. Office of management and budget.
   c. State law library.
   d. The libraries of each state institution of higher education.
   e. State archivist for official and public use.

SECTION 40. AMENDMENT. Section 54-06-15 of the North Dakota Century Code is amended and reenacted as follows:

54-06-15. Failure of officials and employees working in capitol building to return keys upon termination of employment - Duty of person in charge of employing unit - Payment of fee in lieu of return - Retention of final warrant for salary or wage. Each elective or appointive official or state employee employed by, or in charge of, an employing unit with offices in the state capitol building who fails or is unable to return a key, or keys, issued to that person pursuant to section 54-21-17.1 ~~shall~~ must have that person's final warrant-check for payment of salary or wages retained by the person in charge of the employing unit, or the person's designee, until the key or keys are returned, or until the fee in lieu of return provided in this section has been paid. Each official or employee who fails or is unable to return keys issued to the person in the manner provided in section 44-08-18 shall pay a fee of five dollars for each key not returned, which fee must be in lieu of return of a key. Upon receipt of the in lieu fee, the person in charge of the employing unit, or the person's designee, shall release

the official's or employee's final warrant-check for payment of salary or wages. When an official or employee terminates that person's employment and fails or is unable to return a key, or keys, issued to that person, the person in charge of the employing unit, or the person's designee, shall retain the final warrant-check for payment of the salary or wages of that official or employee until compliance with this section ~~has been complied with~~. As used in this section, the phrase "employing unit" means any agency, department, board, commission, or other governmental unit, including the supreme court, the legislative assembly, and ~~the~~ legislative ~~council~~ services, which has offices located in the state capitol building. The phrase "person in charge" means the person who has the overall supervisory and administrative control over the employing unit.

SECTION 41. AMENDMENT. Subsection 4 of section 54-06-25 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 42. AMENDMENT. Section 54-21-17.1 of the North Dakota Century Code is amended and reenacted as follows:

54-21-17.1. Superintendent to secure interior of capitol building - Issuance and return of keys. The superintendent of the highway patrol shall see to the security of the state capitol building, and shall have control over the issuance and return of keys allowing entry to the building proper, or any door located therein. Keys to doors in the legislative wing must be issued and controlled by ~~the~~ legislative ~~council~~ services when so requested by the highway

patrol. The highway patrol shall determine the manner in which keys are to be issued and returned, including the procedure for receiving and recording the payment of fees in lieu of return of keys provided in section 54-06-15.

SECTION 43. AMENDMENT. Section 54-35-02 of the North Dakota Century Code is amended and reenacted as follows:

54-35-02. Powers and duties. In addition to the other applicable provisions of this chapter, the council has the following powers and duties:

1. To study, consider, accumulate, compile, and assemble information on any subject upon which the legislative assembly may legislate, and upon such subjects as the legislative assembly may by concurrent or joint resolution authorize or direct, or any subject requested by a member of the legislative assembly; provided, that the council may screen and prioritize studies assigned by concurrent or joint resolution to maintain its workload within the limitations of time and legislative appropriations.
2. To collect information concerning the government and general welfare of the state and of its political subdivisions.
3. To study and consider important issues of public policy and questions of general interest.
4. To study and promote uniformity of legislation in the United States upon subjects upon which uniformity is desirable and to ~~confer with the commissioners or similar groups appointed for the same purpose by any other state in drafting uniform laws to be submitted for the approval and adoption by the several states and through such member or members or council staff persons as the council may appoint to meet annually with the conference of commissioners on uniform state laws for the promotion of uniformity of legislation in the United States and join with it in such measures as may be deemed most expedient to advance the objects of such conference. The council shall~~ receive, review, and make recommendations on uniform and model laws recommended to it by the state commission on uniform state laws.
5. To prepare proposed bills and resolutions for consideration of the succeeding legislative assembly.

6. To call to its assistance other members of the legislative assembly, and it may create committees consisting of its own members, or one or more of its own members and one or more other members of the legislative assembly and delegate by written resolution to such committees such of its powers and rights as it may deem advisable. Committees of the council may also include nonlegislator members. Any member of the legislative assembly has the right to attend any meeting of the council and may present that member's views on any subject which the council may at any particular time be considering.
7. To issue subpoenas or subpoenas duces tecum in the manner provided in sections 54-03.2-08 and 54-03.2-09. Committees of the council may issue subpoenas and subpoenas duces tecum in the same manner if specifically authorized by the council. Failure to obey a subpoena issued by the council, or one of its committees, is contempt.
8. To control the use of the legislative chambers and permanent displays in memorial hallway. Guidelines may be established pursuant to this subsection and ~~the council, or its designee,~~ legislative services shall administer any guidelines ~~which~~ that are established.
9. To determine access to legislative information services and impose fees for providing legislative information services and copies of legislative documents. This authority may not be exercised in a manner that contravenes access to legislative documents as otherwise provided by law.

SECTION 44. AMENDMENT. Section 54-35-02.2 of the North Dakota Century Code is amended and reenacted as follows:

54-35-02.2. Powers and duties of the legislative audit and fiscal review committee. ~~It is the duty of the~~ The legislative audit and fiscal review committee ~~to~~ shall study and review audit reports as selected by the committee from those submitted by the state auditor, confer with the auditor and deputy auditors in regard to such reports, and when necessary, ~~to~~ confer with representatives of the department, agency, or institution audited in order to obtain full and complete information in regard to any and all fiscal transactions and governmental operations of any department, agency, or institution of the state. Each department, agency, or institution shall furnish to the committee such aid, information, and

assistance in regard to fiscal transactions and governmental operations as it may from time to time request. Whenever the committee may determine or have reason to believe that there may have been a violation of law relating to the receipt, custody, or expenditure of public funds by any state officer or employee, the committee shall present such evidence or information as may be in its possession to the attorney general. The attorney general shall receive and accept such evidence or information and shall immediately commence such additional investigation as the attorney general ~~deems~~ determines necessary. Upon completion of the investigation, if the evidence supplied by the committee and through the investigation indicates the probability of a violation of law by any state official or employee, the attorney general ~~shall~~ immediately shall prosecute such official or employee as provided by law. The legislative council, through its committee on legislative audit and fiscal review, or such persons as may be directed or employed by ~~it~~ legislative services, is authorized, within the limits of legislative appropriations, to make such audits, examinations, or studies of the fiscal transactions or governmental operations of departments, agencies, or institutions of the state as ~~it~~ the legislative council may ~~deem~~ determine necessary.

SECTION 45. AMENDMENT. Section 54-35-03 of the North Dakota Century Code is amended and reenacted as follows:

54-35-03. State departments, officers, and employees to cooperate. Each department, board, commission, agency, officer, or employee in the state government shall furnish such information and render such assistance to the council and to legislative services as the council ~~or~~, its committees, or legislative services may from time to time request.

SECTION 46. AMENDMENT. Section 54-35-06 of the North Dakota Century Code is amended and reenacted as follows:

54-35-06. Officers - Accept funds - Expenditures. The council shall select a chairman and a vice chairman from its own members and may prescribe its own rules of procedure. ~~It~~ The council may appoint a secretary who need not be a member, and shall appoint a director who must be in charge of the offices and staff of ~~the council~~ legislative services and who must be paid such salary as the council may determine. The ~~council~~ director may employ such ~~other~~ persons and obtain the assistance of such research agencies as ~~it may deem~~ determined necessary. The council ~~is authorized to~~ and legislative services may accept and use any funds made available ~~to it~~ through the terms of any agreement ~~that it may make~~

made with any agency whatsoever for the accomplishment of the purpose of this chapter. Expenditures of funds made available ~~to the council~~ by legislative appropriation must be made in accordance with rules or motions duly approved by the council.

SECTION 47. AMENDMENT. Section 54-35-11 of the North Dakota Century Code is amended and reenacted as follows:

54-35-11. Preparation for and assistance to legislative assembly - Custody of equipment - Approval of delayed vouchers. ~~The legislative council is hereby authorized~~ Legislative services, on behalf of the legislative assembly, ~~to~~ may make all necessary arrangements ~~prior to~~ before each legislative session~~,~~ for the procurement of necessary supplies, equipment, services~~, excluding~~ other than the employment of legislative employees, building space, or any other preparations or arrangements ~~it deems~~ legislative services determines necessary or desirable to be made ~~prior to~~ before the commencement of each legislative session in order to facilitate the proper convening and operation of the legislative assembly. ~~The legislative council~~ Legislative services shall act as the custodial agency to ensure the proper storage and safekeeping of legislative supplies and equipment during the interim periods between legislative sessions, and ~~is authorized to~~ may approve vouchers on behalf of the legislative assembly~~, or may authorize its director to do so,~~ for the payment from legislative appropriations of delayed billings or other billings for legislative expenses during periods when the legislative assembly is not in session. ~~It~~ Legislative services shall~~, through its own actions or through its staff,~~ carry out such duties or projects and provide such service and assistance to the legislative assembly or its committees, the legislative council or its committees, and members of the legislative assembly as may be requested by concurrent resolution of the legislative assembly or ~~deemed~~ determined necessary or desirable in assisting the legislative assembly or the legislative council in meeting its responsibilities and carrying out its duties during the legislative session or the interim between sessions.

SECTION 48. AMENDMENT. Section 54-35-12 of the North Dakota Century Code is amended and reenacted as follows:

54-35-12. Legislative budget analyst and auditor. The legislative council shall appoint a legislative budget analyst and auditor. A person is not eligible for the appointment unless the person holds a baccalaureate degree from a recognized institution of higher learning, is a certified public accountant, or has had five years' experience in government

accounting. The appointment of the legislative auditor must be based upon qualifications of eligible persons without reference to partisan politics. The salary of the legislative budget analyst and auditor must be determined by the council ~~and it~~. Legislative services may employ additional persons as necessary to carry out sections 54-35-12 through 54-35-14.

SECTION 49. AMENDMENT. Section 54-35-13 of the North Dakota Century Code is amended and reenacted as follows:

54-35-13. Personnel - Compensation - Expenses. The salaries, travel, and other expenses of the legislative budget analyst and auditor and other personnel within the legislative budget analyst and auditor's office must be submitted, approved, and paid in the same manner as other employees of ~~the~~ legislative ~~council~~ services.

SECTION 50. AMENDMENT. Section 54-35-15 of the North Dakota Century Code is amended and reenacted as follows:

54-35-15. Information technology program - Staff - Powers and duties.

1. ~~The legislative council, or its designee,~~ Legislative services shall provide information technology research and staff services to the legislative branch. The services must be provided in accordance with the existing statutory authority of ~~the~~ legislative ~~council~~ services and within the framework of its other staff services.
2. ~~The legislative council staff office~~ Legislative services shall provide information technology services, ~~and the council, or its designee,~~ may hire such ~~additional~~ staff as are necessary, and set compensation for any additional staff within the limits of legislative appropriations.
3. ~~The council, or its designee,~~ Legislative services shall structure the provision of information technology services and assistance to the legislative assembly and shall receive such cooperation and assistance from other state agencies as ~~it may~~ legislative services reasonably may request.

SECTION 51. AMENDMENT. Section 54-35-19 of the North Dakota Century Code is amended and reenacted as follows:

54-35-19. Use of fees - Appropriation. All fees received by ~~the~~ legislative ~~council and the legislative assembly~~ services for providing legislative information services and copies of legislative documents must be deposited in the legislative services fund in the state treasury. The legislative services fund is a revolving fund with an authorized ceiling of two hundred fifty

thousand dollars. All moneys transferred into the fund, moneys deposited in the fund, and earnings on moneys in the fund are appropriated to ~~the~~ legislative ~~council~~ services for use in improving and enhancing legislative information services and the preparation of legislative documents. The fund is not subject to section 54-44.1-11.

SECTION 52. AMENDMENT. Subsection 2 of section 54-35-22 of the North Dakota Century Code is amended and reenacted as follows:

2. The committee shall review workers' compensation claims that are brought to the committee by injured workers for the purpose of determining whether changes should be made to the laws relating to workers' compensation. A claim may not be reviewed by the committee unless workforce safety and insurance has issued a final determination and either the injured worker has exhausted the administrative and judicial appeals process or the period for appeal has expired. In order for the committee to review a claim, the injured worker must first sign a release of information for constituent authorization to allow the committee and legislative ~~council staff~~ services to review the injured worker's workforce safety and insurance records and to allow the committee members and workforce safety and insurance representatives to discuss the records in an interim committee hearing. Notwithstanding any open meeting requirements, except as otherwise provided under this section, the workforce safety and insurance records of an injured worker whose case is reviewed by the committee are confidential. However, pursuant to the constituent's authorization, information contained in the records may be discussed by the committee members and workforce safety and insurance representatives in an interim committee hearing.

SECTION 53. AMENDMENT. Section 54-35-23 of the North Dakota Century Code is amended and reenacted as follows:

54-35-23. (Effective through July 31, 2009) Committee on tribal and state relations - Membership - Duties.

1. The committee on tribal and state relations is composed of seven members as follows:
   a. The chairman of the legislative council or the chairman's designee;

b. Three members of the house of representatives, two of whom must be selected by the leader representing the majority faction of the house of representatives and one of whom must be selected by the leader representing the minority faction of the house of representatives; and

c. Three members of the senate, two of whom must be selected by the leader representing the majority faction of the senate and one of whom must be selected by the leader representing the minority faction of the senate.

2. The chairman of the legislative council, or the chairman's designee, shall serve as chairman of the committee.

3. The committee shall meet at such times and places as determined by the chairman. ~~The legislative council~~ Legislative services shall provide staffing for the committee.

4. The committee shall conduct joint meetings with the native American tribal citizens' task force to study tribal-state issues, including government-to-government relations, the delivery of services, case management services, child support enforcement, and issues related to the promotion of economic development. After the joint meetings have concluded, the committee shall meet to prepare a report on its findings and recommendations, together with any legislation required to implement those recommendations, to the legislative council.

5. The members of the committee are entitled to compensation from ~~the~~ legislative ~~council~~ services for attendance at committee meetings at the rate provided for members of the legislative assembly for attendance at interim committee meetings and are entitled to reimbursement for expenses incurred in attending the meetings in the amounts provided by law for other state officers.

6. a. The native American tribal citizens' task force is composed of six members as follows:

(1) The executive director of the Indian affairs commission, or the executive director's designee;

(2) The chairman of the Standing Rock Sioux Tribe, or the chairman's designee;

(3) The chairman of the Spirit Lake Tribe, or the chairman's designee;

(4) The chairman of the Three Affiliated Tribes, or the chairman's designee;

(5) The chairman of the Turtle Mountain Band of Chippewa Indians, or the chairman's designee; and

(6) The chairman of the Sisseton-Wahpeton Sioux Tribe, or the chairman's designee.

b. If the executive director of the Indian affairs commission or any of the tribal chairmen appoint a designee to serve on the task force, only one individual may serve as that designee during the biennium. A substitute designee may be appointed by the executive director of the Indian affairs commission or a tribal chairman in the event of the death, incapacity, resignation, or refusal to serve of the initial designee.

SECTION 54. AMENDMENT. Section 54-35-24 of the North Dakota Century Code is amended and reenacted as follows:

54-35-24. (Effective through June 30, 2009) Commission on alternatives to incarceration.

1. The commission on alternatives to incarceration is composed of:

a. Three members appointed by the governor, one of whom must be an academic researcher with specialized knowledge of criminal justice sentencing practices and sentencing alternatives;

b. The attorney general or the attorney general's designee;

c. Two members appointed by the chief justice of the supreme court;

d. The director of the department of corrections and rehabilitation;

e. The director of the department of human services;

f. Two local law enforcement officers appointed by the attorney general;

g. One state's attorney appointed by the North Dakota state's attorney's association;

h. Three members of the house of representatives, two of whom must be selected by the leader representing the majority faction of the house of representatives and one of whom must be selected by the leader representing the minority faction of the house of representatives;

i. Three members of the senate, two of whom must be selected by the leader representing the majority faction of the senate and one of whom must be selected by the leader representing the minority faction of the senate; and

j. One representative of the North Dakota association of counties appointed by the association of counties.

2. The chairman of the legislative council shall select the chairman and vice chairman of the commission from the legislative members of the commission.

3. The commission shall meet at the times and places as determined by the chairman. ~~The legislative council~~ Legislative services shall provide staffing for the commission.

4. The commission shall study sentencing alternatives, mandatory sentences, treatment options, the expanded use of problem-solving courts, home monitoring, and other related issues. If the commission determines that consultant services are necessary to assist the commission in conducting its assigned studies, the commission may request funding for consultant services from ~~the~~ legislative ~~council~~ services and other interested entities. The commission shall provide to the governor information and recommendations for the governor's consideration in time for inclusion of the recommendations in the biennial executive budget. The commission shall report its findings and recommendations together with any legislation required to implement those recommendations to the legislative council.

5. The members of the commission who are not state employees or members of the legislative assembly are entitled to mileage and expenses as provided by law for state officers and employees. Unless otherwise provided in this subsection, the expenses of appointed members are to be paid by ~~the~~ legislative ~~council~~ services. A state employee who is a member of the commission must receive that employee's regular salary and is entitled to mileage and expenses, to be paid by the employing agency. The members of the commission who are members of the legislative assembly are entitled to compensation from ~~the~~ legislative ~~council~~ services for attendance at commission meetings at the rate provided for members of the legislative assembly for attendance at interim committee meetings and are

entitled to reimbursement for expenses incurred in attending the meetings in the amounts provided by law for other state officers.

SECTION 55. AMENDMENT. Section 54-35.2-03 of the North Dakota Century Code is amended and reenacted as follows:

54-35.2-03. Staff services. The advisory commission on intergovernmental relations may request provision of appropriate staff services from ~~the~~ legislative ~~council~~ services.

SECTION 56. AMENDMENT. Section 54-44.1-12.1 of the North Dakota Century Code is amended and reenacted as follows:

54-44.1-12.1. Implementation of legislative intent - Legislative objection to execution of budget - Effect of objection.

1. The budget section of the legislative council may object to any allotment made under section 54-44.1-12, any expenditure of a budget unit, or any failure to make an allotment or expenditure if the budget section deems that the allotment or expenditure or the failure to make an allotment or expenditure is contrary to legislative intent as recorded in any reliable legislative records. The budget section shall file that objection in certified form ~~in the office of the~~ with legislative ~~council~~ services. The filed objection must contain a concise statement of the budget section's reasons for the objection.
2. ~~The office of the legislative council~~ Legislative services shall attach to each objection a certification of the time and date of the filing of the objection and, as soon as possible, shall transmit a copy of the objection and the certification to the director of the budget and the affected budget unit. ~~The office of the legislative council~~ Legislative services shall maintain a permanent register of all objections under this section.
3. Within fourteen days after the filing of an objection, the affected budget unit shall respond in writing to the budget section. After receipt of that response, the budget section may withdraw or modify its objection.
4. After the filing of an objection, the burden of persuasion is upon the budget unit in any action for judicial review of whether the allotment or expenditure or the failure to make an allotment or expenditure is contrary to law. If the budget unit fails to meet its burden of persuasion, the court shall render judgment against the budget

unit for court costs. These court costs must include reasonable attorney's fees and must be payable from the appropriation of the budget unit.

SECTION 57. AMENDMENT. Section 54-55-01 of the North Dakota Century Code is amended and reenacted as follows:

54-55-01. Commission on uniform state laws - Membership. The commission on uniform state laws consists of an individual engaged in the practice of law in this state, the dean or a full-time member of the faculty of the law school of the university of North Dakota, a law-trained judge of a court of record in this state, a member of the house of representatives and a member of the senate of the legislative assembly, and a member of ~~the~~ legislative ~~council staff~~ services. The commission also consists of any residents of this state who, because of long service in the cause of uniformity of state legislation, have been elected life members of the national conference of commissioners on uniform state laws, and may also consist of any residents of this state who have been previously appointed to at least five years of service on the commission. Commissioners, except the members of the legislative assembly, the member of ~~the~~ legislative ~~council staff~~ services, and life members, must be appointed by the governor for terms of four years each, commencing on the first day of September following each presidential election, and shall serve until their respective successors are appointed. The members of the legislative assembly on the commission must be appointed by the legislative council for a term not to exceed four years as prescribed by the legislative council, and the member of ~~the~~ legislative ~~council staff~~ services must be appointed by the chairman of the legislative council.

SECTION 58. AMENDMENT. Section 54-59-11 of the North Dakota Century Code is amended and reenacted as follows:

54-59-11. Information technology plans. Each executive branch state agency or institution, excluding the institutions under the control of the board of higher education, shall prepare an information technology plan, subject to acceptance by the department. The plan must be submitted to the department by July fifteenth of each even-numbered year. The plan must be prepared based on guidelines developed by the department; must provide the information technology goals, objectives, and activities of the entity for the current biennium and the next two bienniums; and must include an asset management plan relating to the inventory of information technology assets owned, leased, or employed by the entity. Each entity

required to file a plan shall provide interim updates to its plan if major information technology changes occur which affect its plan. The department shall review each entity's plan for compliance with statewide information technology policies and standards and may require an entity to change its plan to comply with statewide policies or standards or to resolve conflicting directions among plans. Agencies of the judicial and legislative branches shall file their information technology plans with the department by July fifteenth of each even-numbered year. Each entity required to file a plan shall prepare its budget request for the next biennium based on its information technology plan. The agency's budget request and the governor's budget recommendation must include supporting information describing in detail how the information technology plan relates to the budget request and recommendation. Any budget adjustment by the budget office must include the corresponding change to the plan. Based on the plans, the department shall prepare a statewide information technology plan and distribute copies of that plan to members of the legislative assembly as requested by ~~the~~ legislative ~~council or its designee~~ services. The statewide information technology plan must be developed with emphasis on long-term strategic goals, objectives, and accomplishments. The statewide information technology plan must contain:

1. A list of major projects started, ongoing, and completed during the biennium, including related budgeted and actual costs and the estimated implementation date for each project as well as the actual implementation date for completed projects.
2. Information regarding evaluations of cost-benefit analyses for completed projects.
3. Information regarding the information technology plans, including the department's plan review process, the number of plans reviewed, and the number of plans accepted.
4. A description of the benefits to the state resulting from its investment in information technology.

SECTION 59. AMENDMENT. Section 65-02-01.1 of the North Dakota Century Code is amended and reenacted as follows:

65-02-01.1. Workforce safety and insurance. ~~The legislative council~~ Legislative services may delete, where appropriate, "workers compensation bureau", "North Dakota workers compensation bureau", or any derivatives of those terms, which when used in context indicate an intention to refer to those terms, wherever they appear in the North Dakota Century

Code or in the supplements thereto and to insert in lieu of each deletion "workforce safety and insurance". Such changes are to be made when any volume or supplement of the North Dakota Century Code is being reprinted. It is the intent of the legislative assembly that workforce safety and insurance be substituted for, shall take any action previously to be taken by, and shall perform any duties previously to be performed by the workers compensation bureau. ~~The legislative council~~ Legislative services may replace "bureau", where appropriate, wherever the term appears in the North Dakota Century Code or in the supplements of the North Dakota Century Code, with the term "organization". These changes are to be made when any volume or supplement is being reprinted.

NOTE: Under the assumption that the Legislative Council (meaning the committee of legislators) should determine which interim committee should receive reports and delegate that responsibility to those committees, this bill draft does not include the following sections requiring agencies or other entities to file reports with the Legislative Council: 4-05.1-19 - State Board of Agricultural Research and Education; 11-18-22.1 - County recorders; 15-10-42 - State Board of Higher Education; 15-11-39 - University of North Dakota College of Nursing dean; 15.1-02-09 and 15.1-21-10 - Superintendent of Public Instruction; 15.1-02-13 - Certain school district reports; 15.1-09-57 - Education Standards and Practices Board; 15.1-11-02 - Certain boards of county commissioners; 15.1-27-41 - Commission on Education Improvement; 17-05-13 - North Dakota Transmission Authority; 23-27-04.7 and 23-38-02 - State Health Officer; 26.1-50-05 - Low-Risk Incentive Fund Governing Board; 36-22-09 - North Dakota Stockmen's Association; 40-63-03 - Department of Commerce Division of Community Services; 48-10-03 - Capitol Grounds Planning Commission; 50-06-31 and 50-29-02 - Department of Human Services; 50-09-20 - Department of Human Services (approval rather than report requirement); 52-02-17 - Job Service North Dakota; 53-06.2-04 - North Dakota Racing Commission; 53-12.1-03 - Director of the lottery; 54-06-25 - State Employees Compensation Commission; 54-17.7-13 - North Dakota Pipeline Authority; 54-50-01 - Any North Dakota/South Dakota bistate authority; 54-44.1-07 - Director of the budget; 54-58-03 and 57-51.2-04 - Governor; 54-59-12 - Chief Information Officer; 54-60-11 and 54-60-20 - Commissioner of Commerce; 54-60.1-07 - Department of Commerce; 54-61-03 - Director of Commission on Legal Counsel for Indigents; and 57-40.6-12 - Emergency Services Communications Coordinating Committee.

This bill draft also does not include sections authorizing appointments by the Legislative Council or the Legislative Council chairman, nor sections relating to convening the Legislative Assembly, nor sections requiring agencies or other entities to file reports with specifically named interim committees, nor sections requiring agencies or other entities to file reports with interim committees designated by the Legislative Council, nor sections requiring agencies to file information for review or approval by the Budget Section of the Legislative Council.