

# **NORTH DAKOTA LEGISLATIVE DRAFTING MANUAL**

**2013**

**Legislative Council**

State Capitol  
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# TABLE OF CONTENTS

	Page No.
<b>INTRODUCTION - DRAFTING CHECKLIST</b> .....	1
<b>PART 1 - PRELIMINARY CONSIDERATIONS</b> .....	5
UNITED STATES CONSTITUTION .....	5
CONSTITUTION OF NORTH DAKOTA.....	6
NORTH DAKOTA CENTURY CODE .....	8
Drafting and Interpretation .....	8
Restrictions on Legislation .....	9
LEGISLATIVE RULES .....	9
<b>PART 2 - BILLS</b> .....	11
PARTS OF A BILL.....	11
Session Identification .....	11
Sponsor Identification.....	11
Title.....	11
Enacting Clause .....	12
Body .....	13
Format.....	13
Use of Overstrike and Underscore .....	13
Section Identification Number .....	13
Amending Clause.....	13
Creating Clause .....	15
Caption.....	16
SPECIAL CLAUSES .....	16
Savings or Constitutionality Clause .....	16
Repealer Clause .....	17
Suspending Clause .....	17
Penalty Clause .....	17
Appropriation Clause.....	17
Effective Date Clause.....	18
Retroactive Application Clause .....	19
Expiration Date Clause .....	19
Emergency Clause.....	19
Short Title Clause.....	20
AMENDMENTS TO CODE SECTIONS WITH EFFECTIVE DATE NOTATIONS.....	20
EXAMPLES OF BILLS .....	21
<b>PART 3 - RESOLUTIONS</b> .....	49
SINGLE HOUSE RESOLUTIONS .....	49
MEMORIAL RESOLUTIONS .....	49
CONCURRENT RESOLUTIONS.....	49
PARTS OF A RESOLUTION.....	49
Heading .....	49
Session Identification .....	49
Sponsor Identification.....	50
Title.....	50
Statement of Intent.....	50
Preamble .....	50
Resolving Clause .....	50
Body .....	50
EXAMPLES OF RESOLUTIONS .....	51

<b>PART 4 - AMENDMENTS TO BILLS AND RESOLUTIONS</b> .....	59
PROPER VERSION.....	59
AMENDMENT HEADING.....	59
TYPES OF AMENDMENTS.....	59
Correcting the Title.....	59
Correcting the Amending or Creating Clause.....	59
Correcting Internal References.....	59
Adding New Language to Bill.....	60
Removing Existing Language From the Law.....	60
Reinstating Existing Language Proposed to Be Removed by Overstrikes.....	60
Reinstating Existing Language Proposed to Be Removed by Overstrikes and Adding New Language.....	60
Removing Proposed New Language.....	60
Replacing Proposed New Language.....	60
Removing Existing Language From the Law and Removing Proposed New Language.....	60
Removing Existing Language and Adding Proposed New Language in the Same Line of a Bill.....	61
Inserting or Removing Subsections or Subdivisions.....	61
Inserting an Existing Section of Law Into a Bill.....	61
LAST LINE.....	61
FORMAT.....	62
HOGHOUSE AMENDMENTS.....	63
AMENDMENTS TO BILLS THAT HAVE BEEN AMENDED BUT NOT ENGROSSED.....	63
CONFERENCE COMMITTEE REPORTS AND AMENDMENTS.....	64
EXAMPLES OF AMENDMENTS.....	67
<b>PART 5 - STYLE AND GRAMMAR GUIDELINES</b> .....	89
STATEMENTS OF INTENT OR PURPOSE.....	89
DEFINITIONS.....	89
CONSISTENCY.....	90
GENDER.....	90
SINGULAR NUMBER.....	90
ACTIVE VOICE.....	90
USE OF SHALL, MUST, MAY, MAY NOT, AND IS ENTITLED TO.....	90
USE OF WHICH AND THAT.....	91
USE OF SUCH.....	91
USE OF IF, WHEN, WHENEVER, AND WHERE.....	91
USE OF THIS ACT.....	92
FEDERAL STATUTE AND REGULATION REFERENCES.....	92
CITATION TO CONSTITUTION, LAWS, AND RULES.....	92
ASSIGNMENT OF CENTURY CODE NUMBERS.....	93
OBSOLETE STATUTORY REFERENCES.....	93
SUBSECTIONS, SUBDIVISIONS, PARAGRAPHS, AND SUBPARAGRAPHS.....	93
OFFICIAL TITLES OF PUBLIC ENTITIES.....	94
USE OF MUNICIPALITY.....	97
REPETITION.....	97
SECTION LENGTH.....	97
BLANKS OR BRACKETED MATERIAL.....	98
WORD USAGE.....	98
ABBREVIATIONS AND ACRONYMS.....	100
CAPITALIZATION.....	100
CLOCK TIME AND DATES.....	102
DOLLAR AMOUNTS.....	102
HYPHENATION.....	102
METRIC MEASUREMENT EQUIVALENTS.....	105

NUMBERS.....	105
ORTHOGRAPHY .....	105
PUNCTUATION .....	106
<b>PART 6 - INDEX</b> .....	<b>107</b>



# INTRODUCTION - DRAFTING CHECKLIST

Bills and resolutions may be introduced by a legislator, a standing committee, or the Legislative Management. Senate and House Rules 401(1) provide in part:

Any bill or resolution that conforms to statutory requirements and these rules, within the number and time prescribed, may be introduced by any member, standing committee, or the Legislative Management, by filing the bill or resolution with the Secretary of the Senate (Chief Clerk of the House), who shall number consecutively each bill or resolution.

Joint Rule 208 provides:

Each executive agency and the Supreme Court shall file with the Legislative Council those bills they wish to have introduced no later than the close of business on the day after the adjournment of the organizational session. Each bill is deemed introduced by the standing committee of the House or Senate with general jurisdiction over the subject matter of the bill; but if the filing entity receives the approval of a legislator to sponsor the bill, that bill is to be introduced by the legislator rather than by the standing committee. A bill sponsored by a legislator may not have more sponsors than the number allowed under Senate and House Rules 401. The director of the budget shall file with the Legislative Council those bills making appropriations to implement the budget recommended by the Governor no later than the close of business on the seventh day after the adjournment of the organizational session, as required by North Dakota Century Code Section 54-44.1-07, and those bills are deemed introduced by the Appropriations Committee of the Senate or House at the request of the Governor. The bill implementing the budget request of the judicial branch is deemed introduced by the Appropriations Committee of the Senate or House at the request of the Supreme Court, and the bill implementing the budget request of the legislative branch is deemed introduced by the Appropriations Committee of the Senate or House at the request of the Legislative Council. The Legislative Council shall number and deliver bills filed under this rule to the appropriate house for recording. Each bill introduced under this rule must be identified by noting the name of the agency or the court under the name of the sponsoring committee or legislator. The identification of a bill introduced by a standing committee may include the names of not more than five entities authorized to file bills under this rule.

**For 2013 legislation, the deadline for agency bill filing with the Legislative Council will be 5:00 p.m., Thursday, December 6, 2012.** Under North Dakota Century Code Section 54-44.1-07, the deadline for appropriation bills implementing the Governor's budget will be 5:00 p.m., Wednesday, December 12, 2012.

The original of each bill or resolution filed with the Secretary or Chief Clerk must be prepared in the form prescribed by the Legislative Council. (Senate and House Rules 404(5))

Senate and House Rules 405 provide:

1. When a bill or resolution, with the requisite number of copies, is filed with the Secretary without a notation attached to the covered copy stating that the bill or resolution was approved as to form and style by the Legislative Council, the Secretary immediately shall cause that bill or resolution to be delivered to the Legislative Council with a written request that the bill or resolution be examined and receive a notation approving its form and style.

2. When the Legislative Council receives a bill or resolution from the Secretary pursuant to this rule, it shall see that the bill or resolution is in the form and style required by law, legislative rule, and the drafting rules promulgated by the Legislative Council.
3. When the Legislative Council has ensured that the bill or resolution meets all requirements regarding form and style, the bill or resolution and all copies must be returned to the Secretary with a notation of approval attached to the covered copy.
4. If the Legislative Council, due to the exercise of its responsibilities under this rule, is not able to deliver an approved bill or resolution to the Secretary before expiration of the last legislative day for normal introduction, the Secretary, whenever such an approved bill or resolution is received, shall proceed to file it as if it had been received on the final legislative day for normal introduction.

This drafting manual is published to aid persons drafting bills, resolutions, and amendments. **Form and style review by the Legislative Council is not intended to detect all errors that may be made in drafting.** The drafter should heed the guidelines in this manual and not rely on form and style review by the Legislative Council to correct a defective bill draft. The Legislative Council will make some nonsubstantive corrections to bill drafts, if warranted, without notice to the drafter. **Bills or resolutions materially departing from the rules and guidelines set forth in this manual will not receive form and style approval.**

The following checklist reviews form and style requirements:

1. Do the words **Sixty-third Legislative Assembly of North Dakota** appear in the upper lefthand corner of the first page, and the words **Sixty-third Legislative Assembly** appear in the upper lefthand corner of each subsequent page?
2. Do the words **SENATE BILL NO.** or **HOUSE BILL NO.** appear at the top of the first page of the bill? An agency filing a bill for introduction as an agency bill under Joint Rule 208 may express a preference for the house of introduction but the final decision concerning house of introduction may be based upon relative workloads or other criteria.
3. Does the first page contain the words **Introduced by** followed with the name of the sponsor (or sponsors) below it? If an agency is filing the bill or resolution, is the correct title of the agency used?
4. Does the bill or resolution have a proper title? Are create sections referred to first, amend sections second, repeal sections third, and special clauses last? Does each group have a "relating to" clause?
5. Does the bill have the proper enacting clause or the resolution have the proper resolving clause?
6. Have the sections of the Century Code been listed properly in the title and have they been arranged in numerical order by Century Code section number in the body of the bill?
7. If the bill creates a new numbered section or subsection of the Century Code, has the approval of the Code Revisor of the Legislative Council been obtained?
8. If the bill renumbers an existing subsection because of deletion of a subsection from current law or insertion of a numbered subsection between existing subsections, have all cross-references to the renumbered subsection been corrected? If the bill repeals a section, have all cross-references to the repealed section been removed?



9. If the bill contains amendments or new sections to the Century Code, has all new material been properly underscored, has all material to be deleted been overstruck by dashes, and has it been typed from and **proofread against the Century Code**?
10. Does all overstruck material being replaced with new material occur **before** the underscored material?
11. Have all words been written out? Do not use abbreviations or acronyms.
12. Have all references to "and/or" been removed?
13. Do all created sections contain a caption?

If there are any questions concerning the drafting of bills, resolutions, and amendments, please contact:

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# **PART 1 - PRELIMINARY CONSIDERATIONS**

Before drafting a bill based on an idea for a statutory change, the drafter must determine if a similar, identical, or conflicting law already exists. This law may be in the form of federal or state constitutional or statutory provisions. This summary will not attempt to cover all constitutional or statutory requirements relevant to the drafting of legislative documents, as that would require entire courses on constitutional law and legal research and writing. It is important, however, for a drafter to be thoroughly familiar with constitutional and statutory limitations on legislation.

## **UNITED STATES CONSTITUTION**

Perhaps the most important limitation on state legislatures found in the United States Constitution is found in Article 6, which contains the following language:

This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any state to the contrary notwithstanding.

This provision is known as the Supremacy Clause.

Section 8 of Article 1 lists those powers reserved to Congress. There is an implied limitation on the power of the states to enact laws in those areas reserved to the federal government. Included in this list are such items as the regulation of interstate commerce, bankruptcy, and immigration.

Article 4 requires that each state give full faith and credit to the laws and judicial proceedings of other states. In addition, this article requires that citizens of each state have all privileges and immunities of citizens of other states. This article also provides for extradition proceedings between states upon the demand of a state's Governor and guarantees to every state a republican form of government.

The United States Constitution contains a number of express limitations on state sovereignty. Article 1, Section 10, declares that no state shall:

1. Enter into any treaty, alliance, or confederation.
2. Grant letters of marque and reprisal.
3. Coin money.
4. Emit bills of credit.
5. Make anything but gold and silver coin a tender in payment of debts.
6. Pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts.
7. Grant any title of nobility.
8. Without consent of Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws.
9. Without consent of Congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state or with a foreign power, or engage in war.

Article 1, Section 4, limits state control of elections for United States senators and representatives by requiring that state legislation be subject to such regulations as Congress may pass. Article 6 places additional limitations on the ability of states to determine qualifications of senators and representatives in Congress by providing that no

religious test shall ever be required as a qualification to any office or public trust under the United States.

A number of fundamental restrictions on legislative powers are established by the amendments to the Constitution: The Legislative Assembly may not prohibit religious freedom; establish religion; restrict freedom of speech or of the press; deprive persons of equal protection of the law or the right to life, liberty, or property without due process; deprive persons of the right of peaceable assembly, to bear arms, and to petition the government for redress of grievances; infringe on the right to vote based on race or sex; require, in time of peace, that a soldier be quartered in any house without the owner's consent; make persons subject to unreasonable searches and seizures; in criminal actions, deny the defendant the right to a speedy trial by an impartial jury of peers, allow the defendant to know the charges, be confronted by witnesses and be supported by witnesses, or have assistance of counsel or be compelled to be a witness against oneself; impose excessive bail or inflict cruel and unusual punishment; deny, in suits at common law where the amount in controversy exceeds \$20, the right of trial by jury; or subject a person to double jeopardy.

The United States Constitution is an instrument of grants, while the Constitution of North Dakota is one of limitations. The 10<sup>th</sup> Amendment to the United States Constitution provides that all powers not delegated to the United States nor prohibited to the states are reserved to the states.

## **CONSTITUTION OF NORTH DAKOTA**

The Constitution of North Dakota has numerous provisions important to the bill drafter and thorough knowledge of those provisions is a prerequisite to effective drafting. The constitution consists of: Article I - Declaration of Rights, Article II - Elective Franchise, Article III - Powers Reserved to the People, Article IV - Legislative Branch, Article V - Executive Branch, Article VI - Judicial Branch, Article VII - Political Subdivisions, Article VIII - Education, Article IX - Trust Lands, Article X - Finance and Public Debt, Article XI - General Provisions, Article XII - Corporations Other Than Municipal, and Article XIII - Compact With the United States.

Provisions that apply specifically to bill drafting are contained in Article IV, Section 13, of the Constitution of North Dakota. That section reads:

**Section 13.** Each house shall keep a journal of its proceedings, and a recorded vote on any question shall be taken at the request of one-sixth of those members present. No bill may become law except by a recorded vote of a majority of the members elected to each house, and the lieutenant governor is considered a member-elect of the senate when the lieutenant governor votes.

No law may be enacted except by a bill passed by both houses, and no bill may be amended on its passage through either house in a manner which changes its general subject matter. No bill may embrace more than one subject, which must be expressed in its title; but a law violating this provision is invalid only to the extent the subject is not so expressed.

Every bill must be read on two separate natural days, and the readings may be by title only unless a reading at length is demanded by one-fifth of the members present.

No bill may be amended, extended, or incorporated in any other bill by reference to its title only, except in the case of definitions and procedural provisions.

The presiding officer of each house shall sign all bills passed and resolutions adopted by the legislative assembly, and the fact of signing shall be entered at once in the journal.

Every law, except as otherwise provided in this section, enacted by the legislative assembly during its eighty natural meeting days takes effect on August first after its filing with the secretary of state, or if filed on or after August first and before January first of the following year ninety days after its filing, or on a subsequent date if specified in the law unless, by a vote of two-thirds of the members elected to each house, the legislative assembly declares it an emergency measure and includes the declaration in the Act. Every appropriation measure for support and maintenance of state departments and institutions and every tax measure that changes tax rates enacted by the legislative assembly take effect on July first after its filing with the secretary of state or on a subsequent date if specified in the law unless, by a vote of two-thirds of the members elected to each house, the legislative assembly declares it an emergency measure and includes the declaration in the Act. An emergency measure takes effect upon its filing with the secretary of state or on a date specified in the measure. Every law enacted by a special session of the legislative assembly takes effect on a date specified in the Act.

The legislative assembly shall enact all laws necessary to carry into effect the provisions of this constitution. Except as otherwise provided in this constitution, no local or special laws may be enacted, nor may the legislative assembly indirectly enact special or local laws by the partial repeal of a general law but laws repealing local or special laws may be enacted.

Some constitutional principles relevant to the bill drafter are not specifically provided for in either the state or federal constitutions. Rather, these principles result from interpretations of language found in those constitutions. One of the most important issues for a bill drafter to keep in mind is the principle of the delegation of legislative powers. This issue is closely related to the separation of powers doctrine.

Article XI, Section 26, of the Constitution of North Dakota provides that "[t]he legislative, executive, and judicial branches are coequal branches of government". Even though our constitution does not contain a general distribution clause **expressly** providing for the division of governmental powers among the legislative, executive, and judicial branches of government, the creation of those branches of government operates as an apportionment of the different classes of power. As all of the branches derive their authority from the same constitution, there is an implied exclusion of each branch from the exercise of the functions of the others.

The unlawful delegation of legislative powers arises whenever a law attempts to give someone else, usually in the executive branch, the authority to make policy decisions without adequate guidelines. Legislative power cannot be delegated. The Legislative Assembly must declare the policy of the law and must definitely fix the legal principles which are to control the action taken. *Ralston Purina Co. v. Hagemester*, 188 N.W.2d 405 (N.D. 1971); *MDU v. Johanneson*, 153 N.W.2d 414 (N.D. 1967). A statute that incorporates by reference standards from another source (such as federal law or a professional code) will be regarded as incorporating the standards that existed before the statutory reference, because interpreting it to incorporate future changes would constitute an unconstitutional delegation of legislative authority to the body responsible for those standards. *McCabe v. Workers Compensation Bureau*, 567 N.W.2d 201 (N.D. 1997). An exception exists under Article X, Section 3, of the Constitution of North Dakota to allow adoption of future amendments to federal income tax laws by reference.

## NORTH DAKOTA CENTURY CODE

### Drafting and Interpretation

Century Code Chapters 1-01 and 1-02 contain provisions that apply to the drafting and interpretation of bills.

Chapter 1-01 has general provisions and many definitions that apply to the entire Century Code. Examples of words defined include children, coal, executor, gender, month, person, population, property, rule, several, week, will, and year. If the drafter wants a definition other than the one provided in Chapter 1-01 or in the definitions otherwise provided for in the title or chapter, the word must be defined in the bill.

Section 1-02-10 provides that no part of the Century Code is retroactive unless expressly so declared. However, see *State v. Davenport*, 536 N.W.2d 686 (N.D. 1995) holding that intent of retroactive application may be implied.

Section 1-02-11 provides that no source note is a declaration by the Legislative Assembly as to the purpose, scope, or effect of any section to which the source note or Code Revisor's note relates.

Section 1-02-12 states that no headnote (caption), source note, or cross-reference, whether designating an entire title, chapter, section, subsection, or subdivision, constitutes any part of a statute. A headnote may not be used to determine legislative intent or the legislative history for any statute. See also *State v. Thill*, 468 N.W.2d 643 (N.D. 1991); *Lipp v. Lipp*, 355 N.W.2d 817 (N.D. 1984); *Jochim v. Jochim*, 306 N.W.2d 196 (N.D. 1981).

Section 1-02-16 provides that the repeal of an Act which repealed a former Act does not revive the former Act.

Section 1-02-20 provides that if any portion of a statute is adjudged to be invalid, such judgment does not affect or invalidate any other portion of that statute, but only that portion of the law directly involved in the controversy is affected by the judgment. Therefore, **severability clauses are not necessary in North Dakota legislation**. If the Supreme Court declares a portion of a law unconstitutional, the constitutional provisions of that law will stand, unless the provisions are so interrelated that none of the law can stand without the unconstitutional portion.

Section 1-02-37 provides that all amendments and additions to the Century Code appearing in pocket part supplements must be cited as sections of the Century Code. Therefore, in cross-references and other references to the Century Code it is not necessary to add the words "as amended". This conclusion is further supported by Section 1-02-40, which states that a reference to any portion of a statute applies to all reenactments, revisions, or amendments thereof.

Section 1-02-38 lists five items that are presumed in the enactment of every statute. The presumptions are that compliance with state and federal constitutions is intended, the entire statute is intended to be effective, a just and reasonable result is intended, a result feasible of execution is intended, and public interest is favored over any private interest.

Section 1-02-39 provides for aids in construing ambiguous statutes. If found to be ambiguous, a court may consider the object sought to be attained; the circumstances under which the statute was enacted; the legislative history; the common law or former statutory provisions, including laws upon the same or similar subjects; the consequences of a particular construction; the administrative construction of the statute; and the preamble.

Section 1-02-42 interprets the effective date provisions of Article IV, Section 13, of the Constitution of North Dakota. It provides that unless stated otherwise in the bill, the entire bill takes effect at the same time. This section lists considerations that determine which bills take effect on July first under the constitutional provision.

### **Restrictions on Legislation**

Section 54-03-25 relates to a legislative measure or amendment affecting workers' compensation benefits or premium rates. If Workforce Safety and Insurance determines that the measure or amendment will have an actuarial impact on the fund, the organization is required to submit, before the measure or amendment is acted upon, an actuarial impact statement prepared, at the expense of the organization, by the actuary employed by the organization.

Section 54-35-02.4(5)(6) provides a legislative measure or amendment to a measure affecting a public employees retirement program, public employees health insurance program, or public employees retiree health insurance program may not be introduced or considered in either house unless it is accompanied by a report from the Employee Benefits Programs Committee. A majority of the members of the committee, acting through the chairman, has sole authority to determine whether any legislative measure affects a program.

Section 54-01-05.5 requires a written report and an opinion with regard to any bill introduced to authorize the sale or the exchange of state land. The report is to be prepared by the agency owning or controlling the land, and the opinion is to be prepared by the Commissioner of University and School Lands concerning the highest and best use of the land.

Section 54-03-28 requires a cost-benefit analysis before action by a committee of the Legislative Assembly on any measure mandating health insurance coverage of services or payment for specified providers of services.

### **LEGISLATIVE RULES**

Each house of the Legislative Assembly determines its own rules of procedure according to Article IV, Section 12, of the Constitution of North Dakota. Several of the rules in each house relate to the drafting of bills. The rules for each Legislative Assembly are adopted at the organizational session in December preceding a session. Therefore, the 2013 rules may not be the same as in 2011, although it is a fair presumption they will be quite similar. For the most part, the rules in effect for the Legislative Assembly in 2011 have been incorporated into this manual.





## PART 2 - BILLS

The drafter should pay careful attention to the general principles of legislative drafting. While there are many considerations that enter into the drafting process, a bill that is defective in structure or technical compliance will not accomplish its desired objective.

A preliminary consideration in drafting should be whether a similar bill has been previously drafted. If a previously drafted bill can be used as an example, it will greatly assist the drafter. Do not assume that a previously drafted bill is correct, or even appropriate, in present circumstances but do attempt to find an example to consider. At the end of this part there are several examples intended to illustrate the principles discussed in this part.

### PARTS OF A BILL

There are five main parts to a bill: session identification, sponsor identification, title, enacting clause, and body. Each part is essential and must be complete.

#### Session Identification

The session identification pertains to the legislative session into which the bill is introduced. The words **Sixty-third Legislative Assembly of North Dakota** must appear on the first page of all bills introduced in the 2013 legislative session. The words **Sixty-third Legislative Assembly** must appear on each subsequent page. Review the examples in this manual for illustrations of the proper alignment of the appropriate phrase.

#### Sponsor Identification

The sponsor identification pertains to the legislators or legislative entities sponsoring the bill. It consists of the phrase **Introduced by** and the name (or names) of the sponsor (or sponsors). If the sponsor is a legislator, the sponsor's name should be preceded by either the word **Representative** or **Senator** or the plurals of these words when there is more than one sponsor.

Under the rules in effect during the 2011 legislative session, the number of sponsors of a bill was limited to no more than six members of the Legislative Assembly. Joint Rule 208 limits the number of agency sponsors of a bill to not more than five.

#### Title

The title of a bill describes the content of unnumbered, unlocated created sections of law and lists the numbered or unnumbered but located sections of the Century Code or Session Laws treated by the bill and the nature of the treatment, i.e., whether the sections are created, amended, or repealed. At the end of this part, Example 6 illustrates creation of unnumbered, unlocated sections and Example 9 illustrates creation of an unnumbered but located section. The title of a bill must also briefly express the subject of the created, amended, or repealed sections. Except for bills creating unnumbered, unlocated sections of law, the subject of a bill is expressed in the "relating to" clauses. One relating to clause should describe the subject of all created sections, one relating to clause should describe the subject of all amended sections, and one relating to clause should describe the subject of all repealed sections. Statements of legislative intent, testimony, and the use of adjectives that imply value judgments should be avoided in drafting clauses describing the contents of a bill.

When drafting a title, consideration must be given to Article IV, Section 13, of the Constitution of North Dakota. That section provides that no bill may be amended on its passage through either house so as to change its general subject matter. In addition, no bill may embrace more than one subject, which must be expressed in its title, and a bill in violation of this provision is invalid to the extent of the violation.

The title of a bill begins with the words **A BILL for an Act**. Items, if contained in the bill, should be listed in the following manner:

1. Description of the subject matter of unnumbered, unlocated provisions.
2. All new numbered or located sections, subsections, subdivisions, paragraphs, and subparagraphs being created in numerical order.
3. The sections, subsections, subdivisions, paragraphs, and subparagraphs being amended in numerical order.
4. The sections, subsections, subdivisions, paragraphs, and subparagraphs being repealed in numerical order.
5. A legislative intent statement (intent statements are discouraged - see page 89).
6. A Legislative Management or agency study suggestion or directive.
7. A penalty.
8. An appropriation.
9. An effective date.
10. A provision for retroactive application.
11. An expiration date.
12. A declaration of emergency.

If a bill creates, amends, or repeals provisions of the Century Code and provisions of the Session Laws, the listing of Session Laws provisions should follow the listing of Century Code provisions. The following example of a bill title contains all of these items in the proper order:

A BILL for an Act to provide for the creation of certain banking corporations; to create and enact section 6-03-67.1 and a new section to chapter 6-04 of the North Dakota Century Code, relating to bank deposit insurance; to amend and reenact sections 6-02-03, 6-02-07, and, if House Bill No. 1044 of the sixty-third legislative assembly does not become effective, 6-03-01 of the North Dakota Century Code, relating to insurance requirements and organization certificates and certificates of authority of state banking associations; to repeal section 6-01-18 of the North Dakota Century Code and section 4 of chapter 350 of the 2011 Session Laws, relating to reports of insured institutions; to provide a statement of legislative intent; to provide for a legislative management study; to provide a penalty; to provide an appropriation; to provide a continuing appropriation; to provide an effective date; to provide for retroactive application; to provide an expiration date; and to declare an emergency.

One exception to the general rule governing the proper order of items in a bill title is that if a bill primarily intended to provide an appropriation includes new law or an amendment to the Century Code or Session Laws, the appropriation should be the first reference in the title.

### **Enacting Clause**

A bill must contain an enacting clause after the title. The required enacting clause is:

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

A bill without this enacting clause violates Senate and House Rules 404(3). Century Code Section 16.1-01-09 sets out the enacting clause required for an initiated measure.

## Body

### Format

The body of a bill is divided into numbered sections. Normally, a separate section of the bill is used for each section of the Century Code or Session Laws to be affected.

**In the body of the bill, the listing sequence differs from that in the title.** The created and amended sections must be arranged in numerical order by Century Code section number, without regard to whether the sections are created or amended; amended sections of the Session Laws are then listed in chronological order and within chronological order in numerical order by chapter number; and the repealed sections and chapters must be listed in numerical order at the end of the bill in one repeal section (more than one repeal section may be used if repeals will have differing effective dates). If an unnumbered section is created in a bill that also amends numbered sections, the unnumbered section should be placed among the numbered sections in the approximate logical placement of the new section in the Century Code. For example, if a bill creates an unnumbered section to Chapter 6-08 relating to the sale of banking institutions and also amends Sections 6-08-01 and 6-08-28 and the new section logically belongs between these two sections, it should be placed as the second section of the bill.

The special clauses--penalty clause, appropriation clause, effective date clause, retroactive application clause, expiration date clause, and emergency clause--should be placed in the same order as in the title, and following the substantive provisions of the bill. An exception to this rule for placement of special clauses exists. When a bill, the primary purpose of which is to provide an appropriation, has substantive provisions added, the appropriation section remains the first section of the bill.

### Use of Overstrike and Underscore

In amending the Century Code or Session Laws, extreme care should be taken that each amended section conforms **exactly** to the existing law, including punctuation. Any material contained in a section of the Century Code or Session Laws which is to be deleted by an amendment to that section must be shown in the bill, and must be indicated by being overstruck by dashes. All new material inserted in an existing section must be underscored. **New material (indicated by underscores) replacing old material (indicated by overstrikes) should follow the old material being replaced.** Whenever possible, existing language should be retained. Punctuation within a Century Code or Session Laws section may not be changed unless handled as an amendment. **If a word is to be changed from singular to plural or vice versa, all of the old word must be overstruck and all of the new word must be underscored.**

**All new law must be underscored whether amendments are included or a bill contains only new law. However, certain special clauses are not underscored, including effective date and expiration date clauses, emergency clauses, repealer clauses, Legislative Management study directives, and sections in appropriation bills which relate only to the appropriation provided.**

### Section Identification Number

Each section of a bill is given a section identification number, starting with **SECTION 1** and numbering consecutively thereafter.

### Amending Clause

The purpose of the amending clause is to point out where the current and official version of the law to be amended is located. The amending clause must refer to the section of law being amended. If the law to be amended is not codified, the amending clause should refer to the proper section, chapter, and year of the Session Laws. In rare cases it is necessary to amend a bill already passed during the same Legislative Assembly. In such cases the amending clause must refer to the bill as approved. It may be necessary to amend an initiated measure

that has been passed but not codified. In such cases the amending clause must refer to the initiated measure as adopted.

The amending clause follows the section identification number. Variations in an amending clause depend upon the type of amendment.

The amending clause (with a section identification number) to amend a section of law found in the Century Code should refer to the Century Code as follows:

**SECTION 1. AMENDMENT.** Section 6-09-01 of the North Dakota Century Code is amended and reenacted as follows:

Legislation not of a general and permanent nature is normally not codified in the Century Code. Examples of typical nonpermanent sections are appropriations, bonding authorizations, building authorizations, and land sale authorizations.

The amending clause (with a section identification number) to amend a section of law not codified in the Century Code but compiled in the Session Laws should refer to the appropriate Session Laws as follows:

**SECTION 3. AMENDMENT.** Section 22 of chapter 95 of the 2011 Session Laws is amended and reenacted as follows:

The amending clause (with a section identification number) to amend a section of law amended by the Session Laws should refer to the appropriate section of the Century Code and Session Laws as follows:

**SECTION 4. AMENDMENT.** Section 40-18-15.1 of the North Dakota Century Code, as amended by section 159 of chapter 326 of the 2011 Session Laws, is amended and reenacted as follows:

The amending clause (with a section identification number) to amend a bill passed during the same Legislative Assembly should refer to the appropriate bill as follows:

**SECTION 5. AMENDMENT.** Section 6 of House Bill No. 1046, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

When amending a bill recently passed or to be passed, the only overstrike or underscore that should appear is that which makes the changes to provisions in the bill being amended.

The amending clause (with a section identification number) to amend a section of an initiated measure adopted but not codified is:

**SECTION 6. AMENDMENT.** Section 1 of initiated measure No. 1 as adopted at the (primary/general) election in 2012 is amended and reenacted as follows:

In some instances, the better practice may be to amend only a subsection of a section, especially if the entire section is quite long. This reduces the cost of printing bills. A good rule to use when deciding whether to repeat the whole section or to amend only a subsection is that if the whole section takes up more than one-half page in the Century Code, then amend only the relevant subsection. Never sacrifice clarity for brevity. If the subsection standing alone can be understood in the proper context, or if the description in the title will allow the subsection standing alone to be understood in the proper context, it is probably advisable to amend only the subsection. An example of an amending clause (with a section identification number) to amend a subsection is:

**SECTION 7. AMENDMENT.** Subsection 2 of section 26.1-04-05 of the North Dakota Century Code is amended and reenacted as follows:

In some cases it may be advisable to amend more than one subsection in the same Century Code section. This may occur when amending a very long section. An example of an amending clause (with a section identification number) to amend multiple subsections is:

**SECTION 8. AMENDMENT.** Subsections 2 and 5 of section 26.1-04-05 of the North Dakota Century Code are amended and reenacted as follows:

In very limited instances, special amending clauses are necessary due to the nature of the subject matter being considered. **Contact the Legislative Council staff whenever the use of a special amending clause is being considered.** Examples of two special amending clauses are:

**SECTION 9. AMENDMENT.** Section 26.1-36-06 of the North Dakota Century Code as created by Senate Bill No. 2078, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

**SECTION 10. AMENDMENT.** If Senate Bill No. 2078 does not become effective, section 40-15-06 of the North Dakota Century Code is amended and reenacted as follows:

The complete text, including the Century Code number and caption, of the amended section of law follows the amending clause. If only a subsection is amended, only the number and text of the subsection follow the amending clause, and the Century Code number and caption are not used. If a subdivision, paragraph, or subparagraph is to be amended, it is usually advisable to include the text of the subsection (and thus amend the subsection) so the amendment is understandable by the reader.

Always proofread amended sections carefully against the Century Code volume or the supplement in which the most recent version of the section appears.

### **Creating Clause**

Creation of new Century Code numbers should be avoided when creating a new chapter, section, or subsection of the Century Code. Any assignment of new Century Code chapter, section, or subsection numbers must be cleared with the Code Revisor of the Legislative Council. When a proposed law of a general and permanent nature is enacted and contains no Century Code numbers, the proper numbers will be inserted by the Code Revisor at the time the new law is published as a part of the Century Code. Avoiding the use of new chapter, section, or subsection numbers in bills creating new law will help to eliminate duplicate numbers appearing in other introduced bills. Also, Century Code numbers may not be reused after a section has been repealed. In addition, a section number may not be changed by overstriking the section number and inserting a new underscored section number. To change a section number, the section must be repealed and recreated.

In some cases, it may be important to locate new material in a specific title or chapter in order to use general provisions contained in the chapter or title, such as definitions or penalty provisions. In such a case, the new material may be unnumbered but located in the specific title or chapter desired. The creating clause (with a section identification number) for a new unnumbered chapter to a title of the Century Code should read as follows:

**SECTION 1.** A new chapter to title 34 of the North Dakota Century Code is created and enacted as follows:

The creating clause (with a section identification number) for a new unnumbered section to a chapter of the Century Code should read as follows:

**SECTION 2.** A new section to chapter 40-47 of the North Dakota Century Code is created and enacted as follows:

The creating clause (with a section identification number) for a new numbered section of the Century Code should read as follows:

**SECTION 3.** Section 40-57-03.1 of the North Dakota Century Code is created and enacted as follows:

If the section is long, it may be easier to create a new subsection rather than amend the entire section. The creating clause for an unnumbered subsection is:

**SECTION 4.** A new subsection to section 49-22-20 of the North Dakota Century Code is created and enacted as follows:

In limited instances, special creating clauses are necessary due to the nature of the subject matter being considered. **Contact the Legislative Council staff whenever use of a special creating clause is being considered.** Examples of special creating clauses are:

**SECTION 5.** If Senate Bill No. 2460 is approved by the sixty-third legislative assembly and becomes effective, a new section to chapter 54-24.3 of the North Dakota Century Code is created and enacted as follows:

**SECTION 6.** If Senate Bill No. 2460 as approved by the sixty-third legislative assembly becomes effective, a new section to chapter 54-24.3 of the North Dakota Century Code is created and enacted as follows:

### **Caption**

The complete text, including the Century Code number (if used) and caption (headnote), of the relevant section of law follows the amending or creating clause. When a new section is created, a descriptive caption should be included. A caption gives a brief notice of the content of a section. Well-written captions allow the section listing preceding a chapter to be used as a chapter table of contents. Section 1-02-12 provides that a caption is not part of the law. When a caption is not included in a new section, it will be inserted by the Code Revisor at the time the new law is published as part of the Century Code. A caption should not list every item contained in the section. However, the wording of a caption is important because Century Code index entries are based on the caption.

A dash is used to separate subject headings in a caption. The first word following a dash is capitalized. A period is used at the end of a caption. An example of a caption is:

**60-02-07. Public warehouse license - How obtained - Fee - Financial statement.**

## **SPECIAL CLAUSES**

Special clauses, although an integral part of certain bills, are usually not published as permanent law in the Century Code. Therefore, special clauses do not have to be underscored. However, some special clauses, such as penalty clauses, are published as permanent law and must be underscored.

### **Savings or Constitutionality Clause**

A clause intended to protect the validity of certain portions of an Act is usually termed a savings, severability, or constitutionality clause. **Do not use these clauses.** This type of clause is not necessary in North Dakota because the courts will generally hold all portions of an Act which stand alone to be constitutional even though some other portion of the Act may be unconstitutional. See *State ex rel. Link v. Olson*, 286 N.W.2d 262 (N.D. 1979); *Baird v. Burke County*, 205 N.W. 17 (N.D. 1925). Additionally, Section 1-02-20 is a statutory savings clause.

## Repealer Clause

All provisions to be repealed by a bill must be referred to in the title of the bill. If several sections and a chapter of the Century Code are being repealed, the repeal section (with a section identification number) may read as follows:

**SECTION 1. REPEAL.** Sections 1-01-01, 1-01-02, 1-01-10, 1-01-14, and 1-01-16 and chapter 1-21 of the North Dakota Century Code are repealed.

Both sections and chapters of the Century Code may be repealed. However, **do not repeal parts of sections** such as subsections, subdivisions, paragraphs, or subparagraphs. The preferred method of deleting such material from the Century Code is to amend the section by overstriking the material to be deleted and renumbering the remaining material accordingly in the amendment.

When a bill draft is to repeal a provision of the Century Code, please search the Century Code for any references that will require change. If you are uncertain how to do this, **contact the Legislative Council staff prior to completing the bill draft.** The Council office will provide assistance in determining whether any references to the provision proposed for repeal, deletion, or renumbering need to be corrected (and thus included in the bill draft). **All references to the repealed, deleted, or renumbered provision throughout the entire Century Code should be corrected at the same time the provision is repealed, deleted, or renumbered in order to avoid future statutory construction problems.**

## Suspending Clause

Suspending the operation of a law should be used only in limited circumstances. Please contact the Legislative Council staff when considering suspension of a law.

## Penalty Clause

A provision for a penalty must be noted in the title of the bill. The penalty section should indicate the intended offense classification. Offense classifications are contained in Section 12.1-32-01. An example of a penalty clause **for a law to be codified outside Title 12.1** is:

**SECTION 1. Penalty.** Any person who willfully violates this (Act, chapter, etc., as appropriate) is guilty of a class B misdemeanor.

Any penalty clause to be codified outside of Title 12.1--the Criminal Code--must contain culpability language or the offense may be considered a strict liability offense. *State v. Rippley*, 319 N.W.2d 129 (N.D. 1982). Section 12.1-02-02 defines various kinds of culpability. Although "willfully" furthers the purpose of subsection 2 of Section 12.1-02-02, it does not encompass "negligently". The appropriate level of culpability depends on the substantive provisions. An example of a penalty clause for a law to be codified within Title 12.1 (thus not containing culpability language) is:

**SECTION 2. Penalty.** Any person who violates this (Act, chapter, etc., as appropriate) is guilty of a class B misdemeanor.

A penalty must also be noted in the title if found in a section containing other substantive provisions.

## Appropriation Clause

An appropriation must be noted in the title of the bill.

The standard form for a lump sum general fund appropriation clause is:

**SECTION 1. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of (amount in numerals), or so much of the sum as may be necessary, to (name of agency) for the purpose of \_\_\_\_\_, for the biennium beginning July 1, 2013, and ending June 30, 2015.

If funds are available from more than one source and detail regarding estimated expenditures is available, the following is the standard appropriation clause:

**SECTION 2. APPROPRIATION.** The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to (name of agency) for the purpose of \_\_\_\_\_, for the biennium beginning July 1, 2013, and ending June 30, 2015, as follows:

Salaries and wages	\$(amount in numerals)
Operating expenses	(amount in numerals)
Equipment	(amount in numerals)
Capital improvements	(amount in numerals)
Grants, benefits, and claims	<u>(amount in numerals)</u>
Total all funds	\$(amount in numerals)
Less estimated income	<u>(amount in numerals)</u>
Total general fund appropriation	\$(amount in numerals)

However, if the entire appropriation is from federal or other funds, the "Total all funds", "Less estimated income", and "Total general fund appropriation" lines should be replaced with a "Total special funds appropriation" line and the language in the first paragraph relating to the general fund should be eliminated.

Also, if the entire appropriation is from the general fund, the "Total all funds" and "Less estimated income" lines should be eliminated and the language in the first paragraph relating to special and other funds should be eliminated.

To be valid, an appropriation of public moneys must make a specific and direct appropriation of a definite sum of money for a specified purpose. *Menz v. Coyle*, 117 N.W.2d 290 (N.D. 1962); *Campbell v. Towner County*, 71 N.D. 616, 3 N.W.2d 822 (1942); *Langer v. State*, 69 N.D. 129, 284 N.W. 238 (1939).

If the appropriation is to be made from a special fund, the special fund should be named in place of the general fund. The time period during which the appropriation will be available should be specified in the bill.

### Effective Date Clause

An effective date clause must be noted in the title of the bill. An effective date clause is used to provide an effective date for the bill, or specified sections in the bill, if an effective date is required other than the effective date provided by law. Article IV, Section 13, of the Constitution of North Dakota provides the time a bill becomes effective if the bill does not contain an effective date. Section 1-02-42 provides rules of construction relating to determining effective dates of legislation under the constitutional provision. If a bill is to become effective before the time it would normally become effective under Article IV, Section 13, the bill requires an emergency clause. Examples of types of effective date clauses are:

**SECTION 1. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31, 2012.

**SECTION 2. EFFECTIVE DATE.** This Act becomes effective on January 1, 2014.

**SECTION 3. CONTINGENT EFFECTIVE DATE.** This Act becomes effective on the date the governor certifies to the secretary of state and to the director of the department of transportation and the legislative council that the federal restrictions on speed limits exceeding fifty-five miles per hour are no longer in effect, but only if that day is before August 1, 2015.



**SECTION 4. EFFECTIVE DATE.** Sections 4 and 5 of this Act become effective immediately upon its filing with the secretary of state and sections 1, 2, and 3 of this Act become effective on August 1, 2013.

**SECTION 5. CONTINGENT EFFECTIVE DATE.** Section 4 of this Act becomes effective on the date that the proposed amendment to section 21 of article X of the Constitution of North Dakota as contained in Senate Concurrent Resolution No. 4037, as agreed to by the sixty-third legislative assembly and approved by the electors, becomes effective.

**SECTION 6. CONTINGENT EFFECTIVE DATE.** This Act is contingent on the passage of Senate Concurrent Resolution No. 4002 by the sixty-third legislative assembly and approval of that resolution by the electors of this state. If this Act takes effect, it becomes effective on January 1, 2015.

Please note that use of the "effective immediately" language in the fourth example requires that an emergency clause be part of the bill. The Act in the third example may also be effective before the usual effective date and may require an emergency clause.

Note the difference between examples 1, 2, and 4 and examples 3, 5, and 6 with respect to whether the effective date will take effect without action by anyone or whether the effective date is contingent on an event that may or may not happen.

Note that any bill passed in a special session of the Legislative Assembly must have an effective date clause. Article IV, Section 13, of the Constitution of North Dakota provides an effective date only for bills passed during regular legislative sessions.

### **Retroactive Application Clause**

The application of an Act or part of an Act may be made retroactive. An emergency clause is not required when using this type of clause. Two examples of this type of clause are:

**SECTION 1. RETROACTIVE APPLICATION.** This Act applies retroactively to cases arising after July 31, 2011.

**SECTION 2. RETROACTIVE APPLICATION.** This Act is retroactive in application.

### **Expiration Date Clause**

An expiration date clause must be noted in the title of the bill. An expiration date clause is used to provide a time at which the bill, or a specified provision of the bill, expires. Examples of expiration date clauses are:

**SECTION 1. EXPIRATION DATE.** This Act is effective through July 31, 2014, and after that date is ineffective.

**SECTION 2. EXPIRATION DATE - SUSPENSION.** This Act is effective through July 31, 2013, and after that date is ineffective. North Dakota Century Code sections 9-10-07 and 32-03-07 are suspended from the effective date of this Act through July 31, 2015. Sections 9-10-07 and 32-03-07 as they existed on the day before the effective date of this Act become effective as of August 1, 2015.

### **Emergency Clause**

To be passed as an emergency measure a bill must have a reference to the emergency in its title. The preferred terminology is **and declaring an emergency** or **and to declare an emergency** at the end of the title. Examples of emergency clauses are:

**SECTION 1. EMERGENCY.** This Act is declared to be an emergency measure.

**SECTION 2. EMERGENCY.** Sections 3 and 4 of this Act are declared to be an emergency measure.

### **Short Title Clause**

Short titles should not be used. With statutory codification, every codified section has a Century Code number and is placed with provisions reflecting the subject matter involved. In addition, a chapter caption is developed based upon the chapter's content. Such clauses are usually not codified as part of the Century Code.

## **AMENDMENTS TO CENTURY CODE SECTIONS WITH EFFECTIVE DATE NOTATIONS**

In a Century Code section that contains an effective date or expiration date notation preceding the caption, the notation is considered to be of the same effect as adding an effective date or expiration date clause to the bill draft, except the notation relates only to the version of the section with which it appears. Any amendment made to the version will be effective for the time shown in the notation. The effective date or expiration date for the version can also be changed by overstriking and underscoring a new date in the notation. If such a change is made, the phrase "to provide an effective date" or "to provide an expiration date" should be included in the bill title.

There are situations that require special consideration:

1. If a bill has multiple sections, some having effective date or expiration date notations and some having none, and an effective date or expiration date clause is added at the end of the bill, it is necessary to avoid conflict between the effective date or expiration date clause and any effective date or expiration date notations. An exception is needed in the effective date or expiration date clause, such as:

**SECTION 12. EFFECTIVE DATE.** Except as otherwise provided in this Act, this Act is effective January 1, 2014.

**SECTION 12. EXPIRATION DATE.** Except as otherwise provided in this Act, this Act is effective through July 31, 2015, and after that date is ineffective.

An alternative would be to specify in the effective date or expiration date clause the sections of the bill which are affected by the clause.

2. Amending less than an entire section is strongly discouraged if the section has alternative versions with different effective date notations. Amend a subsection of such a section only if there would be a substantial (two or more pages) savings in the length of the bill. Separate sections of the bill must be used for each version of the subsection being amended, a single reference to the Century Code section in the bill title is adequate, and the bill section amending clauses must refer to the effective date notation for each subsection. Examples of bill section amending clauses for these special circumstances are:

**SECTION 1. AMENDMENT.** Subsection 3 of section 39-02-03 of the North Dakota Century Code, as effective through December 31, 2013, is amended and reenacted as follows:

...

**SECTION 2. AMENDMENT.** Subsection 3 of section 39-02-03 of the North Dakota Century Code, as effective after December 31, 2013, is amended and reenacted as follows:

...

## EXAMPLES OF BILLS

This part contains examples of the forms used for various bills. The examples are not necessarily current law.

1. A Bill Title Illustrating the Order of Clauses
2. A Bill Amending a Section of the Century Code
3. A Bill Amending a Subsection of a Section of the Century Code
4. A Bill Amending a Number of Sections and Subsections of Sections of the Century Code (also illustrates an Agency Bill)
5. A Bill Amending a Section in a Chapter of the Session Laws (also illustrates an Agency Bill)
6. A Bill Creating New Law (also illustrates an Agency Bill)
7. A Bill Creating a New Unnumbered Chapter to a Title of the Century Code
8. A Bill Creating a New Numbered Chapter of the Century Code
9. A Bill Creating a New Unnumbered Section to a Chapter of the Century Code
10. A Bill Creating a New Numbered Section of the Century Code
11. A Bill Creating New Unnumbered Subsections to a Section of the Century Code
12. A Bill Creating a New Numbered Subsection to a Section of the Century Code (also illustrates an Interim Committee Bill)
13. A Bill Repealing a Section of Existing Law (also illustrates a Delayed Bill)
14. A Bill Repealing a Chapter of Existing Law
15. A Bill Amending a Bill That Amended an Existing Section of the Century Code
16. A Bill Amending a Bill That Created a New Unnumbered Section of the Century Code
17. A Bill Amending a Bill That Created a New Numbered Section of the Century Code
18. A Section of a Bill Deleting a Subsection of a Section of the Century Code (also illustrates second page of a bill)
19. A Bill Inserting a New Subsection Between Two Subsections of a Section of the Century Code
20. A Bill Amending a Caption (Section Heading)
21. A Bill to Provide an Appropriation
22. A Bill to Provide an Appropriation to a Specific Entity for a Specified Purpose
23. A Bill Alternatively Amending a Section of the Century Code
24. A Bill Creating New Law by Adopting a Uniform Act
25. A Bill Amending a Section of the Century Code Published in Alternate Versions With Effective Dates in the Captions
26. A Section of a Bill Adopting an Update in Federal Law

## Example 1 - A Bill Title Illustrating the Order of Clauses

Sixty-third  
Legislative Assembly  
of North Dakota

**SENATE BILL NO.**

Introduced by

Senator Puckett

Representatives Gant, Liebrandt

1 A BILL for an Act to provide for the creation of certain banking corporations; to  
2 create and enact section 6-03-67.1 and a new section to chapter 6-04 of the North  
3 Dakota Century Code, relating to bank deposit insurance; to amend and reenact  
4 sections 6-02-03, 6-02-07, if House Bill No. 1044 of the sixty-third legislative  
5 assembly does not become effective 6-03-01, and 6-03-76 of the North Dakota  
6 Century Code and section 4 of chapter 350 of the 2011 Session Laws, relating to  
7 insurance requirements and organization certificates and certificates of authority of  
8 state banking associations; to repeal section 6-01-18 of the North Dakota Century  
9 Code, relating to reports of insured institutions; to provide a penalty; to provide an  
10 appropriation; to provide a continuing appropriation; to provide an effective date; to  
11 provide for retroactive application; to provide an expiration date; and to declare an  
12 emergency.

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

**Example 2 - A Bill Amending a Section of the Century Code**

Sixty-third  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1176**

Introduced by

Representative Maris

1 A BILL for an Act to amend and reenact section 5-01-08 of the North Dakota  
2 Century Code, relating to the age of persons attempting to obtain alcoholic  
3 beverages.

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

5 **SECTION 1. AMENDMENT.** Section 5-01-08 of the North Dakota Century  
6 Code is amended and reenacted as follows:

7 **5-01-08. Persons under ~~twenty-one~~nineteen years of age prohibited**  
8 **from entering licensed premises - Penalty - Exceptions - Referrals to**  
9 **addiction facilities.**

10 Except as permitted in this section and section 5-02-06, any person under  
11 ~~twenty-one~~nineteen years of age purchasing, attempting to purchase, or being in  
12 possession of alcoholic beverages, or furnishing money to any person for such  
13 purchase, or entering any licensed premises where alcoholic beverages are being  
14 sold or displayed, except a restaurant when accompanied by a parent or legal  
15 guardian, or in accordance with section 5-02-06, or if the person is a law  
16 enforcement officer entering the premises in the performance of official duty, is  
17 guilty of a class B misdemeanor. The court may, under this section, refer the person  
18 to an outpatient addiction facility licensed by the . . . .

**Example 3 - A Bill Amending a Subsection of a Section of the Century Code**

Sixty-third  
Legislative Assembly  
of North Dakota

**SENATE BILL NO.**

Introduced by

Senators Erickson, Chance, Kralick, Milton, Liriano

1 A BILL for an Act to amend and reenact subsection 1 of section 16.1-02-03 of the  
2 North Dakota Century Code, relating to the time of establishment of the central  
3 voter file.

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

5 **SECTION 1. AMENDMENT.** Subsection 1 of section 16.1-02-03 of the North  
6 Dakota Century Code is amended and reenacted as follows:

7 1. Not later than the primary election in ~~2008~~2014, the secretary of state  
8 shall establish the central voter file in cooperation with the department of  
9 transportation and county auditors.

**Example 4 - A Bill Amending a Number of Sections and Subsections of Sections of the Century Code**

Sixty-third  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO.**

Introduced by

Agriculture Committee

(At the request of the Department of Trust Lands)

1 A BILL for an Act to amend and reenact subsection 1 of section 47-30.1-02,  
2 subsection 1 of section 47-30.1-05, section 47-30.1-06, subsections 1 and 3 of  
3 section 47-30.1-07, sections 47-30.1-10, 47-30.1-12, and 47-30.1-13, subsection 1  
4 of section 47-30.1-14, sections 47-30.1-16 and 47-30.1-17, subsections 1 and 4 of  
5 section 47-30.1-18, section 47-30.1-19.1, subsection 3 of section 47-30.1-24, and  
6 subsection 1 of section 47-30.1-35 of the North Dakota Century Code, relating to  
7 abandoned property under the Uniform Unclaimed Property Act.

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

9 **SECTION 1. AMENDMENT.** Subsection 1 of section 47-30.1-02 of the North  
10 Dakota Century Code is amended and reenacted as follows:

11 1. Except as otherwise provided by this chapter, all intangible property,  
12 including any income or increment derived therefrom, less any lawful  
13 charges, that is held, issued, or owing in the ordinary course of a holder's  
14 business and has remained unclaimed by the owner for more than  
15 ~~five~~three years after it became payable or distributable is presumed  
16 abandoned.

17 **SECTION 2. AMENDMENT.** Subsection 1 of section 47-30.1-05 of the North  
18 Dakota Century Code is amended and reenacted as follows:

19 1. Any sum payable on a check, draft, or similar instrument, except those  
20 subject to section 47-30.1-04, on which a banking or financial . . . .

**Example 5 - A Bill Amending a Section in a Chapter of the Session Laws**

Sixty-third  
Legislative Assembly  
of North Dakota

**SENATE BILL NO.**

Introduced by

Agriculture Committee

(At the request of the Agriculture Commissioner)

1 A BILL for an Act to amend and reenact section 2 of chapter 49 of the 2011 Session  
2 Laws, relating to the implementation of the central North Dakota beef cattle  
3 experiment station.

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

5 **SECTION 1. AMENDMENT.** Section 2 of chapter 49 of the 2011 Session  
6 Laws is amended and reenacted as follows:

7 **SECTION 2. IMPLEMENTATION.**

8 1. To accomplish the intent and purposes of this Act, a committee is  
9 hereby created composed of the vice president for agriculture at  
10 North Dakota state university; the director of the North Dakota main  
11 agriculture experiment station; ~~the director of the cooperative~~  
12 ~~agricultural extension service at North Dakota state university;~~ the  
13 chairman of the department of animal science at North Dakota state  
14 university; three members of the legislative assembly selected by  
15 the chairman of the . . . .



**Example 6 - A Bill Creating New Law**

Sixty-third  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO.**

Introduced by

Natural Resources Committee

(At the request of the Soil Conservation Committee)

1 A BILL for an Act to provide for annual reports to the state soil conservation  
2 committee on surface mining operations for minerals other than coal, annual reports  
3 to local soil conservation districts, and exemption of certain surface mining  
4 operations.

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

6 **SECTION 1.**

7 **Surface mining operation - Report required.**

8 Except as provided for in section 6 of this Act, a person may not conduct a  
9 surface mining operation without complying with the reporting requirements of this  
10 Act.

11 **SECTION 2.**

12 **Annual report to committee - When filed - Contents.**

13 Any person conducting a surface mining operation shall file with the state soil  
14 conservation committee a report on each surface mining operation conducted  
15 during the calendar year. The report must be filed on or before December thirty-first  
16 of each year in which the surface mining operation is conducted. The annual report  
17 . . . .

**NOTE:** A creating clause is not used in this type of bill. When a bill contains new law, the new material is underscored.

**Example 7 - A Bill Creating a New Unnumbered Chapter to a Title of the Century Code**

Sixty-third  
Legislative Assembly  
of North Dakota

**SENATE BILL NO.**

Introduced by

Senators Sievers, Killebrew

1 A BILL for an Act to create and enact a new chapter to title 39 of the North Dakota  
2 Century Code, relating to licensing of wholesale motorcycle dealers; and to provide  
3 a penalty.

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

5 **SECTION 1.** A new chapter to title 39 of the North Dakota Century Code is  
6 created and enacted as follows:

7 **Wholesale dealer license.**

8 A person, partnership, or corporation may not engage in the business of  
9 wholesaling motorcycles in North Dakota without first being licensed to do so as  
10 provided in this chapter. The director of the department of transportation shall issue  
11 a wholesale dealer license only to a person who engages in the business of  
12 wholesaling motorcycles to another wholesale motorcycle dealer or licensed  
13 motorcycle dealer.

14 **Bond required.**

15 Before the issuance of a wholesale motorcycle dealer license, the applicant  
16 for a license shall furnish a surety . . . .

**NOTE:** It is not necessary in all cases to create a new chapter to a certain title because the new law will be placed in the code where appropriate. However, placement within a specific title is advantageous when making use of provisions in that title, such as general definitions. The choice is the drafter's, but if a numbered chapter is to be created, the Legislative Council staff must be notified.

**Example 8 - A Bill Creating a New Numbered Chapter of the Century Code**

Sixty-third  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO.**

Introduced by

Representatives Berra, Maglie, Mantle, Larson, Mitchell

1 A BILL for an Act to create and enact chapter 38-16 of the North Dakota Century  
2 Code, relating to annual reports to the state soil conservation committee on surface  
3 mining operations for minerals other than coal, annual reports to local soil  
4 conservation districts, and exemption of certain surface mining operations.

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

6 **SECTION 1.** Chapter 38-16 of the North Dakota Century Code is created and  
7 enacted as follows:

8 **38-16-01. Surface mining operation - Report required.**

9 Except as provided for in section 38-16-06, a person may not conduct a  
10 surface mining operation without complying with the reporting requirements of this  
11 chapter.

12 **38-16-02. Annual report to committee - When filed - Contents.**

13 Any person conducting a surface mining operation shall file with the state soil  
14 conservation committee a report on each surface mining operation conducted  
15 during the calendar year. The report must be filed on or before December thirty-first

16 . . . .

**NOTE:** The creation of numbered sections is useful when internal cross-references are required. Examples 6 and 9 illustrate the preferred styles for creating new sections. If numbered sections are being created, the Legislative Council staff must be notified.

**Example 9 - A Bill Creating a New Unnumbered Section to a Chapter of the Century Code**

Sixty-third  
Legislative Assembly  
of North Dakota

**SENATE BILL NO.**

Introduced by

Senator Johnson, Pascual

1 A BILL for an Act to create and enact a new section to chapter 64-02 of the North  
2 Dakota Century Code, relating to licensing of weighmen by the public service  
3 commission.

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

5 **SECTION 1.** A new section to chapter 64-02 of the North Dakota Century  
6 Code is created and enacted as follows:

7 **Weighman licensing - Generally - Fees.**

8 A person may not serve in the capacity of weighman without first having  
9 secured a license. An application for a license must be made on a form furnished  
10 by the public service commission. The application must be accompanied by a fee of  
11 two dollars and fifty cents and must contain the information required by the  
12 commission.

**NOTE:** When a bill contains new law, the new material is underscored.

**Example 10 - A Bill Creating a New Numbered Section of the Century Code**

Sixty-third  
Legislative Assembly  
of North Dakota

**SENATE BILL NO. 2285**

Introduced by

Senators Williams, Hornsby

1 A BILL for an Act to create and enact section 6-03-76 of the North Dakota Century  
2 Code, relating to the use of drawings, contests, gifts, or premiums by banking  
3 institutions.

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

5 **SECTION 1.** Section 6-03-76 of the North Dakota Century Code is created  
6 and enacted as follows:

7 **6-03-76. Use of premiums by banking institutions prohibited.**

8 The use of drawings, contests, services not provided on the premises of  
9 banking institutions, gifts, or premiums in connection with the opening or promotion  
10 of business of any banking institution, branch, drive-in facility, or paying and  
11 receiving station of any banking institution or for the purpose of establishing,  
12 maintaining, or increasing any deposits, loans, investment certificates, or trusts is  
13 prohibited.

**NOTE:** The creation of numbered sections is useful when statutory placement in proximity to existing provisions is desired. If a numbered section is being created, the Legislative Council staff must be notified.

**Example 11 - A Bill Creating New Unnumbered Subsections to a Section of the Century Code**

Sixty-third  
Legislative Assembly  
of North Dakota

**SENATE BILL NO.**

Introduced by

Senators Morris, Viola

1 A BILL for an Act to create and enact two new subsections to section 11-09-12 of  
2 the North Dakota Century Code, relating to the powers and duties of a county  
3 manager.

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

5 **SECTION 1.** Two new subsections to section 11-09-12 of the North Dakota  
6 Century Code are created and enacted as follows:

7 Keep a separate true and correct account of the receipts and  
8 expenditures of each fund of the county.

9 Produce at any meeting of the board of county commissioners or of any  
10 committee appointed to examine the county manager's accounts,  
11 whenever ordered to do so by the board of county commissioners, all of  
12 the books and papers pertaining to the county manager's office.

**NOTE:** An extra line space is inserted between the two subsections to identify the break between the subsections.

**Example 12 - A Bill Creating a New Numbered Subsection to a Section of the Century Code**

Sixty-third  
Legislative Assembly  
of North Dakota

**SENATE BILL NO.**

Introduced by

Legislative Management

(Finance and Taxation Committee)

1 A BILL for an Act to create and enact subsection 31 to section 57-39.2-04.1 of the  
2 North Dakota Century Code, relating to sales tax exemptions.

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

4 **SECTION 1.** Subsection 31 to section 57-39.2-04.1 of the North Dakota  
5 Century Code is created and enacted as follows:

6 31. Gross receipts from the sale of all services furnished by any hospital or  
7 nursing home to any patient or occupant.

**NOTE:** The creation of numbered subsections to a section should be avoided. Example 11 illustrates the preferred style for creating new subsections.

### Example 13 - A Bill Repealing a Section of Existing Law

Sixty-third  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO.**

Introduced by

Representatives Versalles, Killebrew

Senators Morneau, Carew, Mauer

(Approved by the Delayed Bills Committee)

1 A BILL for an Act to repeal section 34-07-09 of the North Dakota Century Code,  
2 relating to the number of years of required school attendance by a minor for  
3 issuance of an employment certificate.

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

5 **SECTION 1. REPEAL.** Section 34-07-09 of the North Dakota Century Code  
6 is repealed.

**NOTE:** The drafter should determine whether any statutory cross-references to the provisions being repealed need to be corrected.



## Example 14 - A Bill Repealing a Chapter of Existing Law

Sixty-third  
Legislative Assembly  
of North Dakota

**SENATE BILL NO.**

Introduced by

Government and Veterans' Affairs Committee

(At the request of the Department of Veterans' Affairs)

1 A BILL for an Act to repeal chapter 37-24 of the North Dakota Century Code,  
2 relating to Vietnam veterans' educational assistance.

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

4 **SECTION 1. REPEAL.** Chapter 37-24 of the North Dakota Century Code is  
5 repealed.

**NOTE:** The drafter should determine whether any statutory cross-references to the provisions being repealed need to be corrected.

**Example 15 - A Bill Amending a Bill That Amended an Existing Section of the Century Code**

Sixty-third  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1036**

Introduced by

Representatives Aaron, Mays, Musial

1 A BILL for an Act to amend and reenact section 5-01-08 of the North Dakota  
2 Century Code, relating to the age of persons attempting to obtain alcoholic  
3 beverages.

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

5 **SECTION 1. AMENDMENT.** Section 5-01-08 of the North Dakota Century  
6 Code as amended in section 1 of House Bill No. 1176, as approved by the  
7 sixty-third legislative assembly, is amended and reenacted as follows:

8 **5-01-08. Persons under ~~nineteen~~nineteen years of age prohibited from**  
9 **entering licensed premises - Penalty - Exceptions.**

10 Except as permitted in this section and section 5-02-06, any person under  
11 ~~nineteen~~nineteen years of age purchasing, attempting to purchase, or being in  
12 possession of alcoholic beverages, or furnishing money to any person for such  
13 purchase, or entering any licensed premises . . . .

**NOTE:** The overstruck and the underscoring language that appeared in the bill being amended is removed and the bill is printed as though in permanent law. See Example 2 for "House Bill No. 1176". The only overstrike and underscore appearing in this version are those effectuating the changes made by this bill.

**Example 16 - A Bill Amending a Bill That Created a New Unnumbered Section of the Century Code**

Sixty-third  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO.**

Introduced by

Representatives Reardon, Nathan

Senators Aguilera, Guardado

1 A BILL for an Act to amend and reenact the new section to chapter 64-02 of the  
2 North Dakota Century Code as created by section 1 of House Bill No. 1036, as  
3 approved by the sixty-third legislative assembly, relating to the licensing of  
4 weighmen.

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

6 **SECTION 1. AMENDMENT.** The new section to chapter 64-02 of the North  
7 Dakota Century Code as created by section 1 of House Bill No. 1036, as approved  
8 by the sixty-third legislative assembly, is amended and reenacted as follows:

9 **Weighman licensing - Generally - Fees.**

10 A person may not serve in the capacity of weighman without first having  
11 secured a license. An application for a license must be made on a form furnished  
12 by the ~~public service commission~~state department of health. The application must  
13 be accompanied by a fee of two dollars and fifty cents and must contain the  
14 information required by the ~~commission~~department.

**Example 17 - A Bill Amending a Bill That Created a New Numbered Section of the Century Code**

Sixty-third  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO.**

Introduced by

Representatives Oliva, Carew

Senators Mauer, Puckett

1 A BILL for an Act to amend and reenact section 6-03-76 of the North Dakota  
2 Century Code as created by section 1 of Senate Bill No. 2285, as approved by the  
3 sixty-third legislative assembly, relating to the use of drawings, contests, gifts, or  
4 premiums by banking institutions.

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

6 **SECTION 1. AMENDMENT.** Section 6-03-76 of the North Dakota Century  
7 Code as created by section 1 of Senate Bill No. 2285, as approved by the sixty-third  
8 legislative assembly, is amended and reenacted as follows:

9 **6-03-76. Use of premiums by banking institutions prohibited--**  
10 **Exception.**

11 The use of drawings, contests, ~~services not provided on the premises of~~  
12 ~~banking institutions,~~ gifts, or premiums in connection with the opening or  
13 promotion of business of any banking institution, branch, drive-in facility, or  
14 paying and receiving station of any banking institution or for the purpose of  
15 establishing, maintaining, or increasing any deposits, loans, investment  
16 certificates, or trusts is prohibited.

**NOTE:** See Example 10 for "Senate Bill No. 2285".

**Example 18 - A Section of a Bill Deleting a Subsection of a Section of the Century Code**

Sixty-third  
Legislative Assembly

1           **SECTION 4. AMENDMENT.** Section 40-02-01 of the North Dakota Century  
2 Code is amended and reenacted as follows:

3           **40-02-01. Requisites of incorporation as city ~~or village~~.**

4           Any contiguous territory in this state, not exceeding four square miles  
5 [1035.99 hectares] in area, not already included within the corporate limits of any  
6 incorporated ~~municipality~~city, may become incorporated as a ~~village~~or-city whether  
7 ~~such~~the territory is located in one or more counties, under the following conditions:

- 8           1. ~~If such territory shall have residing therein a population of not less than~~  
9           ~~one hundred inhabitants, it may become incorporated as a village;~~
- 10          2. ~~If such~~the territory shall ~~have~~has residing therein a population of ~~not~~  
11          ~~less~~no fewer than ~~two~~fifty ~~nor more than five~~ hundred inhabitants, it may  
12          become incorporated as a ~~village~~or as a city under the council or modern  
13          council form of government;.
- 14          ~~3.2.~~ If ~~such~~the territory shall ~~have~~has residing therein a population of ~~not~~  
15          ~~less~~no fewer than five hundred inhabitants, it may become incorporated  
16          as a ~~village, or as a~~city under the council or modern council form of  
17          government, or as a city under the commission form of government.

**NOTE:** Deletion of a subsection by amendment is preferred over repeal of the subsection. In either case, the drafter should determine whether any statutory cross-references to the deleted subsection and to the renumbered subsections need to be corrected.

**Example 19 - A Bill Inserting a New Subsection Between Two Subsections of a Section of the Century Code**

Sixty-third  
Legislative Assembly  
of North Dakota

**SENATE BILL NO.**

Introduced by

Senator Perry

Representatives Viola, Santana

1 A BILL for an Act to amend and reenact section 20.1-13-06 of the North Dakota  
2 Century Code, relating to equipment requirements on vessels.

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

4 **SECTION 1. AMENDMENT.** Section 20.1-13-06 of the North Dakota Century  
5 Code is amended and reenacted as follows:

6 **20.1-13-06. Exemption from numbering provisions of this chapter.**

7 A motorboat ~~shall~~is not be required to be numbered under this chapter if it is  
8 any of the following:

- 9 1. Already covered by a number, ~~in full force and effect~~, awarded it pursuant  
10 to federal law or a federally approved numbering system of another state,  
11 ~~provided such if~~ the boat has not been within this state for more than  
12 ninety consecutive days.
- 13 2. A motorboat from a foreign country temporarily using the waters of this  
14 state.
- 15 3. A motorboat owned by the United States, a state, or a subdivision  
16 thereof.
- 17 ~~3.4.~~ A ship's lifeboat.

**NOTE:** Insertion of a subsection may cause cross-reference problems because of the renumbering of existing subsections. The drafter should determine whether any statutory cross-references to the renumbered subsections need to be corrected.

**Example 20 - A Bill Amending a Caption (Section Heading)**

Sixty-third  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO.**

Introduced by

Representatives Oliva, Allison

Senators Hall, Killebrew

1 A BILL for an Act to amend and reenact section 54-17.2-10 of the North Dakota  
2 Century Code, relating to financing of projects by the building authority.

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

4 **SECTION 1. AMENDMENT.** Section 54-17.2-10 of the North Dakota  
5 Century Code is amended and reenacted as follows:

6 **54-17.2-10. Appropriations and funds from which rent payments are**  
7 **payable and right to project upon nonpayment - Commission's power to use**  
8 **or sell facilities for other purposes on nonpayment of rent.**

9 ~~The lease~~A financing agreement must provide that rent payments due under  
10 the financing agreement are payable solely from appropriations to be made by the  
11 legislative assembly for ~~the~~such payment of ~~the lease rent or,~~ money available to  
12 the ~~lessee~~estate not requiring appropriation, money generated from charges made  
13 for use of the project, any revenues derived by the commission from the operation  
14 of the project, or any combination of such moneys. The financing agreement may  
15 provide that the commission upon nonpayment of ~~lease rents~~ is immediately  
16 entitled to the peaceable possession, access, and occupancy of the project and all  
17 appurtenances and easements appertaining thereto, and may maintain and operate  
18 the project or execute leases for the project or sell the project to political  
19 subdivisions of the state or private persons or entities for any purpose.

**NOTE:** A caption is not part of the law. A bill changing only the caption does not change the law. See Section 1-02-12; *Jochim v. Jochim*, 306 N.W.2d 196 (N.D. 1981); *Lipp v. Lipp*, 355 N.W.2d 817 (N.D. 1984).

**Example 21 - A Bill to Provide an Appropriation**

Sixty-third  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO.**

Introduced by

Appropriations Committee

(At the request of the Governor)

1 A BILL for an Act providing an appropriation for defraying the expenses of the state  
2 library coordinating council.

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

4 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so  
5 much of the funds as may be necessary, are appropriated out of any moneys in the  
6 general fund in the state treasury, not otherwise appropriated, and from special  
7 funds derived from federal funds and other income, to the state library coordinating  
8 council for the purpose of defraying the expenses of that council, for the biennium  
9 beginning July 1, 2013, and ending June 30, 2015, as follows:

10	Salaries and wages	\$1,635,689
11	Operating expenses	2,435,059
12	Equipment	5,210
13	Grants, benefits, and claims	<u>6,629,000</u>
14	Total all funds	\$10,704,958
15	Less estimated income	<u>9,677,333</u>
16	Total general fund appropriation	\$1,027,625



**Example 22 - A Bill to Provide an Appropriation to a Specific Entity for a Specified Purpose**

Sixty-third  
Legislative Assembly  
of North Dakota

**SENATE BILL NO.**

Introduced by

Senators Cordova, Knoblauch, Castino

Representatives Carew, Oliva

1 A BILL for an Act to provide an appropriation to the state board for career and  
2 technical education to finance workforce training programs.

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

4 **SECTION 1. APPROPRIATION.** There is appropriated out of any moneys in  
5 the general fund in the state treasury, not otherwise appropriated, the sum of  
6 \$875,000, or so much of the sum as may be necessary, to the state board for  
7 career and technical education for the purpose of contracting with institutions of  
8 higher education assigned primary responsibility for workforce training in this state,  
9 for the biennium beginning July 1, 2013, and ending June 30, 2015.

**Example 23 - A Bill Alternatively Amending a Section of the Century Code**

Sixty-third  
Legislative Assembly  
of North Dakota

**SENATE BILL NO.**

Introduced by

Senators Young, Feller,

Representatives Koufax, Ryan

1 A BILL for an Act to amend and reenact section 15-40.2-12 of the North Dakota  
2 Century Code or in the alternative to amend and reenact section 15.1-29-15 of the  
3 North Dakota Century Code, relating to the levy of property taxes for tuition charges  
4 and transportation; and to provide an effective date.

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

6 **SECTION 1. AMENDMENT.** If House Bill No. 1045 does not become  
7 effective, section 15-40.2-12 of the North Dakota Century Code is amended and  
8 reenacted as follows:

9 **15-40.2-12. Levy for tuition charges permitted.**

10 The ~~school~~board of any school district approving the payment of tuition  
11 charges for resident students ~~in grades seven through twelve~~ or required to make  
12 tuition payments under this chapter may levy an amount pursuant to subdivision c  
13 of subsection 1 of section 57-15-14.2 sufficient to pay tuition charges.

14 **SECTION 2. AMENDMENT.** Section 15.1-29-15 of the North Dakota Century  
15 Code as created by House Bill No. 1045, as approved by the sixty-third legislative  
16 assembly, is amended and reenacted as follows:

**Example 24 - A Bill Creating New Law by Adopting a Uniform Act**

Sixty-third  
Legislative Assembly  
of North Dakota

**SENATE BILL NO.**

Introduced by

Judiciary Committee

(At the request of the Commission on Uniform State Laws)

1 A BILL for an Act to adopt the Uniform Arbitration Act, relating to the enforcement of  
2 voluntary written agreements to arbitrate disputes.

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

4 **SECTION 1.**

5 **Validity of arbitration agreement.**

6 A written agreement to submit any existing controversy to arbitration or a  
7 provision in a written contract to submit to arbitration any controversy thereafter  
8 arising between the parties is valid, enforceable, and irrevocable, except upon such  
9 grounds as exist at law or in equity for the revocation of any contract. Sections 1  
10 through 20 of this Act also apply to arbitration agreements between employers and  
11 employees or between their respective representatives unless otherwise provided  
12 in the agreement.

**NOTE:** Use of the words Uniform Act should only be used when adopting a uniform Act drafted and approved by the National Conference of Commissioners on Uniform State Laws.

**Example 25 - A Bill Amending a Section of the Century Code Published in Alternate Versions With Effective Dates in the Captions**

Sixty-third  
Legislative Assembly  
of North Dakota

**SENATE BILL NO. 2244**

Introduced by

Senators Chance, Goltz, Grant, Boswell, Perry

1 A BILL for an Act to amend and reenact section 15-02-02 of the North Dakota  
2 Century Code, relating to the vote required for removal of the commissioner of  
3 university and school lands.

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

5 **SECTION 1. AMENDMENT.** Section 15-02-02 of the North Dakota Century  
6 Code is amended and reenacted as follows:

7 **15-02-02. (Effective through June 30, 2013) Term of office - Vacancy.**

8 The term of office of the commissioner is two years and until his successor is  
9 appointed and qualified. The commissioner is subject to removal at the pleasure of  
10 the board. In case of vacancy by death, removal, resignation, or any other cause,  
11 the board shall fill the vacancy by appointment.

12 **(Effective July 1, 2013) Term of office - Removal - Vacancy.** The term of  
13 office of the commissioner is four years beginning July first of the year following the  
14 general election of the board members and ending June thirtieth of the fourth  
15 calendar year after appointment or until a successor is appointed and qualified. The  
16 commissioner may be removed for cause at any time during the commissioner's  
17 term of office, by a vote of ~~four or more~~ a majority of board members. Upon vacancy  
18 by death, resignation, or removal, the board shall appoint a commissioner for the  
19 remainder of the four-year term.

**NOTE:** Care must be exercised with effective dates of statutes and bills. To amend the version of this section effective July 1, 2013, would require an emergency clause or inclusion of an appropriation or tax measure to make the bill effective July 1. An amendment to the version effective through June 30 would require an emergency clause because this version expires June 30 and cannot be revived by a bill becoming effective after that date.

Page No. 1

## Example 26 - A Section of a Bill Adopting an Update in Federal Law

Sixty-third  
Legislative Assembly

1           **15-39.1-10.6. Benefit limitations.**

2           Benefits with respect to a member participating under former chapter 15-39  
3 or chapter 15-39.1 or 15-39.2 may not exceed the maximum benefits specified  
4 under section 415 of the Internal Revenue Code [26 U.S.C. 415] in effect on  
5 August 1, ~~2003~~2013, for governmental plans. This section does not constitute an  
6 election under section 415(b)(10)(C) of the Internal Revenue Code [26 U.S.C.  
7 415(b)(10)(C)] in effect on August 1, ~~2003~~2013.



## **PART 3 - RESOLUTIONS**

The Legislative Assembly takes action through bills or resolutions. A bill is used to enact law. A resolution is used to take action not having the effect of law.

### **SINGLE HOUSE RESOLUTIONS**

A single house resolution is voted upon only by the house of introduction. A resolution is used by a single house of the Legislative Assembly to take action affecting its own concerns or procedures, such as appointing a committee of its members, or expressing an opinion or sentiment on a matter of public interest. Frequently, this type of resolution offers congratulations and requires that a copy or copies be transmitted to specified persons.

House and Senate Rules 407 provide that no resolution commending, lauding, congratulating, or otherwise honoring any person or group, other than memorial resolutions extending condolences, may be introduced or further considered unless the person or group is being recognized for an achievement that has brought national attention or recognition.

### **MEMORIAL RESOLUTIONS**

A memorial resolution is used to express condolences.

### **CONCURRENT RESOLUTIONS**

A concurrent resolution must pass both houses of the Legislative Assembly. Concurrent resolutions are used for proposing constitutional amendments, directing Legislative Management studies, expressing legislative approval of action taken by someone else, authorizing expenditures out of the legislative appropriation, expressing legislative congratulations, commendation, or sympathy, and making a request of or expressing an opinion to Congress or the President of the United States.

### **PARTS OF A RESOLUTION**

There are seven main parts to most resolutions: heading, session identification, sponsor identification, title, preamble, resolving clause, and body.

A resolution proposing a constitutional amendment contains a heading, session identification, sponsor identification, title, statement of intent, resolving clause, and body.

#### **Heading**

The heading identifies the type of resolution and the house of introduction. The headings for the first of the different types of resolutions introduced into the House are House Concurrent Resolution No. 3001, House Resolution No. 5001, and House Memorial Resolution No. 7001. The headings for the first of the different types of resolutions introduced into the Senate are Senate Concurrent Resolution No. 4001, Senate Resolution No. 6001, and Senate Memorial Resolution No. 8001.

#### **Session Identification**

The session identification pertains to the legislative session into which the resolution is introduced. The words **Sixty-third Legislative Assembly of North Dakota** must appear on the first page of all resolutions introduced in the 2013 legislative session. The words **Sixty-third Legislative Assembly** must appear on each subsequent page. The examples in this manual illustrate the proper alignment of the appropriate phrase.

## Sponsor Identification

The sponsor identification pertains to the legislators or legislative entities sponsoring the resolution. It consists of the phrase **Introduced by** and the name (or names) or the sponsor (or sponsors). If the sponsor is a legislator, the sponsor's name should be preceded by either the word **Representative** or **Senator** or the plurals of these words when there is more than one sponsor.

## Title

The title of a resolution describes the subject matter of the resolution in one sentence.

The title of a resolution proposing a constitutional amendment must be drafted in a manner similar to the title of a bill, but starting with "A concurrent resolution for" rather than "A BILL for an Act to".

## Statement of Intent

House and Senate Rules 408 require every resolution proposing a change in the Constitution of North Dakota to contain a statement setting forth in clear and precise language the legislative purpose and intent of the proposed change. The statement must clearly represent the substance and effect of the proposed change.

## Preamble

The preamble of a resolution contains the **WHEREAS** clauses. Resolutions are generally drafted with the broadest **WHEREAS** clause coming first and with more definitive statements following. These clauses should be accurate.

## Resolving Clause

The resolving clause is essential for any resolution. The examples following this part illustrate the proper resolving clause for each type of resolution.

## Body

The body contains the actual text of the resolution. For all resolutions except those proposing a constitutional amendment, the first clause in the body should start with the word "That" and each succeeding clause should start with the words and comma **"BE IT FURTHER RESOLVED,"**. Drafters should remember that if someone is asked to perform an act or to do a study, that person should be given a time by which to report back to the Legislative Assembly on the performance of the act or to submit the study.

For all resolutions except those proposing a constitutional amendment, references to Title, Chapter, and Section should be initially capped. Although hortatory qualifiers, such as **will**, **should**, and **ought**, should not be used in the text of an Act, the use of the terms in a resolution are often appropriate because a resolution is usually used to suggest action rather than to require it.

For a resolution proposing a constitutional amendment, the body should start with the following submission clause:

That the following proposed amendment to section \_\_\_\_ of article \_\_\_\_ of the Constitution of North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the \_\_\_\_\_ election to be held in 2014, in accordance with section 16 of article IV of the Constitution of North Dakota.

The remainder of the body for a resolution proposing a constitutional amendment should be drafted using the form used for the body of bill drafts.



## **EXAMPLES OF RESOLUTIONS**

This part contains examples of the forms used for various resolutions. The examples do not necessarily reflect current law or issues.

1. A Senate Concurrent Resolution Urging Congressional Action
2. A House Concurrent Resolution for a Legislative Management Study
3. A Senate or House Memorial Resolution
4. A Senate Resolution Offering Congratulations
5. A House Concurrent Resolution for a Constitutional Amendment
6. A House Concurrent Resolution for Creation of a New Section to the Constitution

**Example 1 - A Senate Concurrent Resolution Urging Congressional Action**

Sixty-third  
Legislative Assembly  
of North Dakota

**SENATE CONCURRENT RESOLUTION NO.**

Introduced by

Senators Winfield, Molitor

1 A concurrent resolution urging Congress to make grading for federal crop insurance  
2 more equivalent to industry standards.

3 **WHEREAS**, federal crop insurance is purchased as a risk management tool;  
4 and

5 **WHEREAS**, federal crop insurance does not adequately address the risks  
6 present in the production of wheat; and

7 **WHEREAS**, the industry uses stricter standards in discounting wheat to feed  
8 prices than those used for payment of federal crop insurance; and

9 **WHEREAS**, the industry deeply discounts or purchases at feed prices based  
10 upon many other factors besides the limited factors used for federal crop insurance;

11 **NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH**  
12 **DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:**

13 That the Sixty-third Legislative Assembly urges the Congress of the United  
14 States to make grain grading for federal crop insurance more equivalent to industry  
15 standards; and

16 **BE IT FURTHER RESOLVED**, that the Secretary of State forward copies of  
17 this resolution to the Federal Crop Insurance Corporation, the Secretary of the  
18 United States Department of Agriculture, and to each member of the North Dakota  
19 Congressional Delegation.

**Example 2 - A House Concurrent Resolution for a Legislative Management Study**

Sixty-third  
Legislative Assembly  
of North Dakota

**HOUSE CONCURRENT RESOLUTION NO.**

Introduced by

Representatives Ruth, Gehrig, Foxx, Simmons, Cronin

1 A concurrent resolution directing the Legislative Management to study the Uniform  
2 Marital Property Act, existing marital property law in this state, and the marital  
3 property laws of other states.

4 **WHEREAS**, it is the legislative responsibility to review existing laws to  
5 ensure that they address the problems they are intended to rectify; and

6 **WHEREAS**, the Sixty-third Legislative Assembly considered, but did not  
7 adopt, Senate Bill No. 2180, the Uniform Marital Property Act, based in part on  
8 questions about the present state of marital property law in this state, and the effect  
9 that enactment of the Uniform Marital Property Act would have on ownership and  
10 division of marital property in this state;

11 **NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF**  
12 **REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING**  
13 **THEREIN:**

14 That the Legislative Management study the Uniform Marital Property Act,  
15 existing marital property law in this state, and the marital property laws of other  
16 states; and

17 **BE IT FURTHER RESOLVED**, that the Legislative Management report its  
18 findings and recommendations, together with any legislation required to implement  
19 the recommendations, to the Sixty-fourth Legislative Assembly.

### Example 3 - A Senate or House Memorial Resolution

Sixty-third  
Legislative Assembly  
of North Dakota

Introduced by

1 A memorial resolution extending sympathy and condolence to Senator (or  
2 Representative) D. E. Blank upon the death of her father.

3 **WHEREAS**, God has seen fit to summon from our midst Mr. A. C. Blank, the  
4 father of our colleague, Senator (or Representative) D. E. Blank; and

5 **WHEREAS**, Senator (or Representative) D. E. Blank is held in the highest  
6 esteem by all members of the Legislative Assembly, who share with her great  
7 sorrow;

8 **NOW, THEREFORE, BE IT RESOLVED BY THE SENATE (OR HOUSE OF**  
9 **REPRESENTATIVES) OF NORTH DAKOTA:**

10 That we express our deepest sorrow and extend to Senator (or  
11 Representative) D. E. Blank and all members of her family our sincere sympathy  
12 and condolence in this their time of sorrow; and

13 **BE IT FURTHER RESOLVED**, that this resolution be entered in the journal  
14 and the Secretary of State present an enrolled copy to Senator (or Representative)  
15 D. E. Blank and members of her family.

**Example 4 - A Senate Resolution Offering Congratulations**

Sixty-third  
Legislative Assembly  
of North Dakota

**SENATE RESOLUTION NO.**

Introduced by

Senators Ruth, Cobb, Mathewson

1 A resolution congratulating the University of North Dakota's hockey team for its  
2 outstanding season and its NCAA Division I hockey national championship.

3 **WHEREAS**, the University of North Dakota's hockey team captured the  
4 NCAA Division I hockey national championship with a thrilling 6-4 victory over its  
5 opponent; and

6 **WHEREAS**, the University of North Dakota's hockey team was conference  
7 champion as well as NCAA Division I hockey national champion; and

8 **WHEREAS**, the team consists of outstanding individual athletes who play as  
9 a cohesive, unselfish team with balanced and explosive offense, unyielding  
10 defense, and stalwart goaltending and this team is an exemplar of the proud  
11 University of North Dakota hockey heritage;

12 **NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH**  
13 **DAKOTA:**

14 That the Senate takes great pride in extending to all members and coaches  
15 of the University of North Dakota's hockey team its heartiest congratulations for  
16 winning the NCAA Division I hockey national championship; and

17 **BE IT FURTHER RESOLVED**, that the Secretary of State forward . . . .

**NOTE:** Unless the resolution congratulates for achievement which has brought national attention, it may not be introduced or considered. See Senate and House Rules 407.

**Example 5 - A House Concurrent Resolution for a Constitutional Amendment**

Sixty-third  
Legislative Assembly  
of North Dakota

**HOUSE CONCURRENT RESOLUTION NO.**

Introduced by

Representatives Hrbek, Forster, Wood, Lolich, Fielder

1 A concurrent resolution to amend and reenact section 7 of article IX of the Constitution  
2 of North Dakota, relating to obsolete references in sections concerning appraisal and  
3 sale of institutional lands; and to provide an effective date.

4 **STATEMENT OF INTENT**

5 This measure removes obsolete references in sections concerning appraisal and sale of  
6 institutional lands and provides these changes will take effect on August 1, 2015.

7 **BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA,**  
8 **THE SENATE CONCURRING THEREIN:**

9 That the following proposed amendment to section 7 of article IX of the  
10 Constitution of North Dakota is agreed to and must be submitted to the qualified electors  
11 of North Dakota at the general election to be held in 2014, in accordance with section 16  
12 of article IV of the Constitution of North Dakota.

13 **SECTION 1. AMENDMENT.** Section 7 of article IX of the Constitution of North  
14 Dakota is amended and reenacted as follows:

15 **Section 7.** All lands ~~mentioned in the preceding section~~ received by the state for  
16 any specific educational . . . .

17 **SECTION 2. EFFECTIVE DATE.** If approved by the electors, this measure  
18 becomes effective on August 1, 2015.

**NOTE:** In the case of a constitutional amendment originating in the  
Senate, the resolving clause should be:

**BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE  
HOUSE OF REPRESENTATIVES CONCURRING THEREIN:**

**Example 6 - A House Concurrent Resolution for Creation of a New Section to the Constitution**

Sixty-third  
Legislative Assembly  
of North Dakota

**HOUSE CONCURRENT RESOLUTION NO.**

Introduced by

Representatives Terry, Williams

(Approved by the Delayed Bills Committee)

1 A concurrent resolution to create and enact a new section to article IV of the  
2 Constitution of North Dakota, relating to the time of taking effect of laws changing  
3 compensation of members of the legislative assembly.

4 **STATEMENT OF INTENT**

5 This measure would delay the effectiveness of legislative compensation changes until  
6 the next regular session of the legislative assembly.

7 **BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA,**  
8 **THE SENATE CONCURRING THEREIN:**

9 That the following proposed new section to article IV of the Constitution of North  
10 Dakota is agreed to and must be submitted to the qualified electors of North Dakota at  
11 the general election to be held in 2014, in accordance with section 16 of article IV of  
12 the Constitution of North Dakota.

13 **SECTION 1.** A new section to article IV of the Constitution of North Dakota is  
14 created and enacted as follows:

15 No law varying the compensation for members of the legislative assembly may  
16 take effect until an election of members of the house of representatives has  
17 intervened.





## **PART 4 - AMENDMENTS TO BILLS AND RESOLUTIONS**

The drafting, typing, and proofreading of amendments to bills and resolutions require the same care used in the original drafting process. This part of the manual describes items that should be kept in mind as amendments to bills or resolutions are drafted. At the end of this part of the manual are examples of amendments.

### **PROPER VERSION**

Be certain amendments are made to the version of the bill or resolution which is in the custody of the committee clerk.

### **AMENDMENT HEADING**

When proposing amendments to a bill or resolution that has not been engrossed or reengrossed, the heading of the first page of the amendments should be in a form such as:

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1039

When proposing amendments to a bill or resolution that has been engrossed, the amendments must be made to the engrossed version. The heading of the first page of the amendments should be in a form such as:

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2050

When proposing amendments to a bill or resolution that has been reengrossed, the amendments must be made to the reengrossed version. The heading of the first page of the amendments should be in a form such as:

PROPOSED AMENDMENTS TO REENGROSSED  
SENATE BILL NO. 2048

### **TYPES OF AMENDMENTS**

#### **Correcting the Title**

When amending a bill or resolution, the title should be corrected as needed to indicate any addition or removal of sections, or to add new statements concerning the contents of the bill or resolution. Place language that is to be removed, added, or otherwise changed, or which helps explain the position of other language in quotes. For example:

Page 1, line 5, after "sections" insert "10-06-01.2,"

**NOTE:** The language or numerals added by amendment are not underscored unless they must be underscored in the bill.

#### **Correcting the Amending or Creating Clause**

When correcting faulty amending or creating clauses, additions to the clauses are made without underscoring the new language and removals are made without overstriking the language to be eliminated. For example:

Page 1, line 18, replace "Subsection" with "Subsections 1 and"

Page 1, line 19, replace "is" with "are"

#### **Correcting Internal References**

When sections of the bill are added, removed, or renumbered by amendment, the rest of the bill must be checked to ensure that references to the added, removed, or renumbered sections located elsewhere in the bill conform to the changes made.

Page 3, line 16, replace "10-06-40" with "10-06-41"

### **Adding New Language to Bill**

When proposing new language to a bill, the proposed new language is always underscored. For example:

Page 3, line 20, after "annual" insert "report"

Page 6, line 8, after "seventeen" insert "years"

### **Removing Existing Language From the Law**

When proposing the removal of language from an existing section of law, the language is removed by using the word **overstrike**. For example:

Page 3, line 15, overstrike "forty percent"

### **Reinstating Existing Language Proposed to Be Removed by Overstrikes**

When existing law has been proposed for removal in a bill through the use of an overstrike of the language and the desire is to preserve and reinstate the language as it currently reads in the Century Code or Session Laws, an amendment removes the overstrike as follows:

Page 3, line 18, remove the overstrike over "~~as provided by law~~"

Page 3, remove the overstrike over lines 25 through 30

### **Reinstating Existing Language Proposed to Be Removed by Overstrikes and Adding New Language**

When existing law has been proposed for removal in a bill through the use of an overstrike of the language and the desire is to preserve and reinstate the language as it currently reads in the Century Code or Session Laws and to also add new language, the following format must be used:

Page 3, line 18, remove the overstrike over "~~as provided by law~~" and insert immediately thereafter "the director and"

### **Removing Proposed New Language**

When proposing the removal of proposed new language from a bill, the amendment uses the word **remove**. For example:

Page 6, line 17, remove "ninety percent or more"

Whenever several pages would be removed from a bill by an amendment, it is necessary to deal with one page at a time. For example:

Page 5, remove lines 1 through 30

Page 6, remove lines 1 through 30

### **Replacing Proposed New Language**

When replacing proposed new language, the replacement language follows the removed language. For example:

Page 1, line 7, replace "secretary of state and" with "tax commissioner."

### **Removing Existing Language From the Law and Removing Proposed New Language**

When proposing the removal of language from an existing section of law and in the bill new language has been added within the language to be removed, the language to be removed must be overstruck and the new language must be removed. For example:

Page 1, overstrike lines 20 through 24

Page 1, line 25, overstrike "management and budget"

Page 1, line 25, remove "or the director's designee"

Page 1, line 25, overstrike the period

### **Removing Existing Language and Adding Proposed New Language in the Same Line of a Bill**

When proposing the removal of existing language from a section of law and adding proposed new language to replace the overstruck language, the proposed new language follows the language to be overstruck. For example:

Page 4, line 17, overstrike "twenty-one" and insert immediately thereafter "eighteen"

### **Inserting or Removing Subsections or Subdivisions**

When inserting or removing a subsection or subdivision from a bill, the amendment must renumber or reletter the subsections or subdivisions. For example:

Page 9, line 14, after the period insert:

"Primarily" means more than fifty percent of the time the machinery or equipment is used.

g."

Page 9, line 19, overstrike "g." and insert immediately thereafter "h."

### **Inserting an Existing Section of Law Into a Bill**

When proposing the insertion of an existing section of law from the Century Code into a bill, an example of the proper form to use is:

Page 1, after line 6, insert:

**SECTION 3. AMENDMENT.** Section 14-03-01 of the North Dakota Century Code is amended and reenacted as follows:

#### **14-03-01. What constitutes marriage.**

Marriage is a personal relation arising out of a civil contract between one man and one woman to which the consent of the parties is essential."

When inserting a section of law into a bill, the section must be placed in the bill in the proper listing sequence. See page 13.

When inserting existing law, it is also necessary to change the title to reflect the insertion and to check to see if internal references throughout the bill to other sections in the bill or to the section being inserted will require change.

## **LAST LINE**

At the end of the amendments, place the statement:

Renumber accordingly

"Renumber accordingly" instructs the Legislative Council staff to renumber the sections of the bill if necessary. The amendments should include amendments to renumber cross-references to section numbers within the bill when necessary. A drafter should not rely on the statement "Renumber accordingly" to include changes in cross-references within the bill.

## FORMAT

In drafting amendments, first cite the page number and then the line number. Lines are not numbered on the amendment pages. Amendments must be single-spaced, with one space between each amendment on the same page. An example of the form and style or a set of amendments (without the heading) to a bill is:

Page 1, line 7, remove "to provide an appropriation;"

Page 1, line 18, replace "reclamation for productive use" with "reclaimed or reclaim"

Page 2, line 26, after the period insert "Any operator feeling aggrieved by the plan approved by the commission may request a hearing."

Page 3, line 17, replace the first "the" with "an"

Page 3, line 17, replace "shall" with "may"

Page 4, line 18, overstrike "answer in the appropriate court"

Page 4, line 18, after "can" insert "reply to the affidavit"

Page 4, remove lines 22 through 28

Re-number accordingly

An example of a set of amendments (without the heading) to an appropriation bill is:

Page 2, line 13, replace "553,634" with "518,334"

Page 2, line 33, replace "general" with "special tax refund"

Re-number accordingly

The form to use to remove a considerable body of material from a bill is:

Page 1, line 2, remove "to authorize certain banks"

Page 1, line 3, remove "to maintain one or more trust offices,"

Page 2, remove lines 26 through 31

Page 2, line 32, replace "7" with "6"

Page 4, remove lines 1 through 10

Page 5, remove lines 25 through 35

Page 6, remove lines 1 through 34

Re-number accordingly

The form to use to replace a considerable body of material in a bill or resolution is:

Page 1, replace lines 17 through 23 with:

**"SECTION 5.** A new subsection to section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

An individual, estate, or trust must be allowed a credit against the tax otherwise due under this section."

Re-number accordingly

## HOGHOUSE AMENDMENTS

In some cases it may be acceptable to accomplish the removal of all of the text of a bill through use of a "hoghouse" amendment. **Use of "hoghouse" amendments is discouraged**, but if clarity is enhanced, a "hoghouse" amendment may be used. Examples 10 and 13 in this part are examples of "hoghouse" amendments.

### AMENDMENTS TO BILLS THAT HAVE BEEN AMENDED BUT NOT ENGROSSED

Before preparing a set of amendments to any bill, the bill must be checked to see if amendments to the bill have been adopted. A bill may have been amended without being engrossed (or reengrossed). This frequently happens when a bill is amended by the second house.

If the bill has not been previously amended, the amendments can be prepared for the bill as introduced. If the bill has been amended, and the bill has been engrossed or reengrossed, the amendments must be to the engrossed or reengrossed bill.

If amendments to the bill have not been inserted into the bill, one of these alternatives should be used:

1. If the second set of amendments is independent of the first set, e.g., the second set of amendments does not affect any portion of the bill affected by the first set of amendments, a statement should be inserted as a paragraph below the caption of the amendments and above the actual text of the amendments as follows:

In addition to the amendments adopted by the \_\_\_\_ as printed on page \_\_\_\_ of the \_\_\_\_\_ Journal, \_\_\_\_\_ Bill No. \_\_\_\_ is further amended as follows:

2. If the second set of amendments is not independent of the first set, e.g., the second set directly affects the first set, one of these alternatives should be used, depending upon the length of the amendments:
  - a. If the first set of amendments is lengthy, and the second set of amendments is very brief, the amendments may be to the amendments as printed in the journal. An introductory paragraph should be used as follows:

That the amendments to House Bill No. \_\_\_\_ as printed on page \_\_\_\_ of the \_\_\_\_\_ Journal be amended as follows:

Page \_\_\_\_ of the \_\_\_\_\_ Journal, line \_\_\_\_, after "good bills" insert "are always approved"

**NOTE:** When amending amendments that are printed in the journal, always refer to the printed line of the journal in which is found the material you are changing. The running head (top line which has the page number and date) should be counted, as should any line composed of asterisks. If there is confusion as to the journal line, use enough words in your quoted material so that the line to which you are referring is readily ascertainable.

- b. If the second set of amendments is to retreat from the first set and to do something different, or to substantially revise the first set, instead of amending the amendments as contained in the journal, an introductory paragraph should be used as follows:

In lieu of the amendments adopted by the \_\_\_\_\_ as printed on page \_\_\_\_ of the \_\_\_\_\_ Journal, \_\_\_\_\_ Bill No. \_\_\_\_ is amended as follows:

## CONFERENCE COMMITTEE REPORTS AND AMENDMENTS

The introductory language for conference committee amendments differs from amendments prepared for standing committees.

The specific report language must recognize that a chamber accede to or recede from amendments of the other chamber and must recognize whether a bill has been engrossed or reengrossed. Generally, a bill is not engrossed or reengrossed by the second house; however, House and Senate Rules 335 provide that a bill amended in the second house may be engrossed or reengrossed upon motion or on request of a leader.

Amendments adopted by a conference committee must include that portion of the committee report which describes what version of the bill is to be amended, i.e., how to put the amendment into the bill. This enables the committee clerk to fill out the conference committee report form.

The following are examples of report language that is included as the introductory paragraph in conference committee amendments. Reference should be made to the appropriate pages of each chamber's journal where the amendments are printed. List the pages of the journal of the chamber of origin of the measure before the pages of the journal of the second house.

1. A bill that was amended in the second house.
  - a. If the conference committee wants the first house to agree to the amendments by the second house:

That the (House) (Senate) accede to the (Senate) (House) amendments as printed on pages \_\_\_\_ of the (House) (Senate) Journal and pages \_\_\_\_ of the (Senate) (House) Journal.
  - b. If the conference committee wants to reject the amendments adopted by the second house:

That the (House) (Senate) recede from its amendments as printed on pages \_\_\_\_ of the (Senate) (House) Journal and pages \_\_\_\_ of the (House) (Senate) Journal.
  - c. If the conference committee wants to reject the amendments adopted by the second house and to amend the bill, which was not engrossed by the second house:

That the (House) (Senate) recede from its amendments as printed on pages \_\_\_\_ of the (Senate) (House) Journal and pages \_\_\_\_ of the (House) (Senate) Journal and that (Senate) (House) Bill No. \_\_\_\_ be amended as follows:
  - d. If the conference committee wants to accept the amendments adopted by the second house and to further amend the bill, which was not engrossed by the second house:

That the (House) (Senate) accede to the (Senate) (House) amendments as printed on pages \_\_\_\_ of the (House) (Senate) Journal and pages \_\_\_\_ of the (Senate) (House) Journal and that (House) (Senate) Bill No. \_\_\_\_ be further amended as follows:

**NOTE:** The decision whether to accede to the amendments or recede from the amendments depends on the type of "further" amendments to be made. If the new amendments would amend the other amendments, the appropriate method would be to recede from the "old" amendments.

- e. If the conference committee wants to further amend the bill, which was engrossed by the second house, this form is to be used:

That the (House) (Senate) accede to the (Senate) (House) amendments as printed on pages \_\_\_\_ of the (House) (Senate) Journal and pages \_\_\_\_ of the (Senate) (House) Journal and that (House) (Senate) Bill No. \_\_\_\_ as engrossed by the (Senate) (House) be amended as follows:

**NOTE:** The second house cannot recede from its amendments if that chamber has engrossed the bill. If the second house is to "recede" from its amendments, the engrossed bill must be amended to remove the amendments.

2. A bill that was amended in the first house (engrossed), and amended in the second house, but not reengrossed.

- a. If the conference committee wants to approve the amendments adopted by the second house:

That the (House) (Senate) accede to the (Senate) (House) amendments as printed on pages \_\_\_\_ of the (House) (Senate) Journal and pages \_\_\_\_ of the (House) (Senate) Journal.

- b. If the conference committee wants to reject the amendments adopted by the second house and to amend the bill:

That the (House) (Senate) recede from its amendments as printed on pages \_\_\_\_ of the (Senate) (House) Journal and pages \_\_\_\_ of the (House) (Senate) Journal and that Engrossed (Senate) (House) Bill No. \_\_\_\_ be amended as follows:

- c. If the conference committee wants to approve the amendments adopted by the second house and to further amend the bill:

That the (House) (Senate) accede to the (Senate) (House) amendments as printed on pages \_\_\_\_ of the (House) (Senate) Journal and pages \_\_\_\_ of the (Senate) (House) Journal and that Engrossed (House) (Senate) Bill No. \_\_\_\_ be further amended as follows:

3. If the bill is amended in the first house (engrossed), and amended in the second house, and reengrossed by the second house.

- a. If the conference committee wants to approve the amendments as adopted in the second house:

That the (House) (Senate) accede to the (Senate) (House) amendments as printed on pages \_\_\_\_ of the (House) (Senate) Journal and pages \_\_\_\_ of the (Senate) (House) Journal.

- b. If the conference committee wants to accept the amendments adopted by the second house and to further amend the bill:

That the (House) (Senate) accede to the (Senate) (House) amendments as printed on pages \_\_\_\_ of the (House) (Senate) Journal and pages \_\_\_\_ of the (Senate) (House) Journal and that (House) (Senate) Bill No. \_\_\_\_ as reengrossed by the (Senate) (House) be amended as follows:

**NOTE:** In this case the second house cannot recede from its amendments. Amendments must be made to the reengrossed bill.





## EXAMPLES OF AMENDMENTS

This part contains examples to illustrate various methods used in amending bills and resolutions.

1. Amendments to a Bill as Introduced
2. Amendments Inserting an Additional Section in an Engrossed Bill
3. Amendments Inserting an Effective Date Clause in a Reengrossed Bill
4. Amendments Inserting a New Line Item Appropriation in an Engrossed Bill
5. Amendments Adding and Amending a Section of Existing Law to an Engrossed Bill
6. Amendments Adding and Amending a Subsection of Existing Law to a Bill (illustrates breaking a long subsection into subdivisions)
7. Amendments Adding a New Subsection to an Engrossed Bill Creating New Law
8. Amendments Providing for an Amendment in the Alternative
9. Amendments to Amendments That Appear in the Journal but Have Not Been Adopted
10. Hoghouse Amendment
11. Amendments Replacing a Substantial Amount of Material
12. Amendments to an Engrossed Concurrent Resolution
13. Hoghouse Amendment to a Resolution for a Constitutional Amendment
14. Amendments to a Resolution to Provide for an Alternative Constitutional Amendment
15. Conference Committee Amendments Acceding to Previous Amendments and Further Amending the Engrossed Bill
16. Amendments to a Bill That Has Been Amended but Not Passed or Engrossed
17. Division of the Question on Amendments
18. Amendments to Correct and Revise the Journal
19. Amendments Redesignating Subsections and Subdivisions
20. Amendments in Addition to Amendments Already Adopted

## Example 1 - Amendments to a Bill as Introduced

### PROPOSED AMENDMENTS TO HOUSE BILL NO. 1250

Page 1, line 27, remove the overstrike over "~~three~~" and remove "four"

Page 2, line 1, remove "seventy-five"

Page 2, line 4, remove the overstrike over "~~five~~"

Page 2, line 4, remove "six"

Page 2, line 4, remove "and fifty cents"

Page 2, line 6, remove the overstrike over "~~eight~~"

Page 2, line 6, remove the overstrike over "~~and fifty~~"

Page 2, line 6, remove "ten"

Page 2, line 7, remove the overstrike over "~~cents~~"

Page 2, line 10, replace "from July 1, 2013," with an underscored period

Page 2, remove lines 11 and 12

Page 2, line 18, after "receipt" insert "or the certificate of a member of the legislative assembly"

Page 2, line 21, replace "thirty-three" with "thirty"

Page 3, line 3, overstrike "The travel"

Page 3, overstrike lines 4 through 8

Page 3, line 17, replace "thirty" with "twenty-five"

Page 3, line 20, overstrike "thirty" and insert immediately thereafter "thirty-five"

Page 4, line 8, after "aircraft" insert ", except for leased or rented private aircraft from a recognized fixed base aviation operator who is in the business of leasing and renting private aircraft and is located on an airport open for public use"

Page 4, line 33, replace "thirty" with "twenty-five"

Page 5, line 4, after "year" insert ", up to a maximum of two hundred fifty thousand dollars"

Renumber accordingly

## Example 2 - Amendments Inserting an Additional Section in an Engrossed Bill

### PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1001

Page 1, line 1, after "Act" insert "to create and enact a new section to chapter 57-01 of the North Dakota Century Code, relating to reports by the tax commissioner to the budget section regarding the auditing enhancement program and settlements of tax assessments; and"

Page 5, after line 14, insert:

"**SECTION 7.** A new section to chapter 57-01 of the North Dakota Century Code is created and enacted as follows:

**Reports on auditing enhancement program and settlement of tax assessments.**

The tax commissioner shall submit reports quarterly to the budget section on the progress made in collecting additional tax revenues under the auditing enhancement program and on settlements of tax assessments. For any settlements of tax assessments made during the quarterly period the reports must contain:

1. The amount assessed and the date assessed.
2. The amount collected and the date of collection.
3. An explanation of efforts to finalize collection, including information regarding negotiations."

Renumber accordingly

### Example 3 - Amendments Inserting an Effective Date Clause in a Reengrossed Bill

#### PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1078

Page 1, line 2, remove "and"

Page 1, line 3, after "compact" insert "; and to provide a contingent effective date"

Page 15, after line 2, insert:

**"SECTION 3. EFFECTIVE DATE.** This Act becomes effective on August 1, 2013, unless the state of South Dakota, pursuant to chapter 240, 1989 Session Laws of South Dakota, has ratified and approved the Dakota interstate low-level radioactive waste compact as created by, and in substantially form and substance as, House Bill No. 1077 as enacted by the fifty-first legislative assembly of North Dakota, in which event this Act does not become effective."

Renumber accordingly

**Example 4 - Amendments Inserting a New Line Item Appropriation in an Engrossed Bill**

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1662

Page 11, after line 10, insert:

"Minot state university      Library building      6,000,000"

Page 11, line 11, replace "14,800,000" with "20,800,000"

Page 11, after line 29, insert:

**"SECTION 23. APPROPRIATION - MINOT STATE UNIVERSITY.** There is appropriated \$1,200,000, or so much of that amount as may become available, from federal, private, and other funds to Minot state university in addition to other moneys appropriated in this Act for a regional library at Minot state university."

Renumber accordingly

**Example 5 - Amendments Adding and Amending a Section of Existing Law to an Engrossed Bill**

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1067

Page 1, line 5, after "sections" insert "10-06-01.2,"

Page 2, after line 2, insert:

**"SECTION 2. AMENDMENT.** Section 10-06-01.2 of the North Dakota Century Code is amended and reenacted as follows:

**10-06-01.2. Surface coal mining - Exception.**

A corporation not engaged in the business of farming or ranching may own or lease lands used for farming or ranching, when the business of such a corporation is the conducting of surface coal mining operations or related energy conversion, ~~and~~ when the owning or leasing of lands used for farming or ranching is reasonably necessary in the conduct of the business of surface coal mining or related energy conversion, and when the lands used for farming or ranching are identified in the permit application under section 38-14.1-14 or the extended mining plan under section 38-14.1-15. When such necessity for owning or leasing of lands used for farming or ranching no longer exist or if the lands are not identified in the permit application or the extended mining plan by August 1, 2013, for land owned or leased by the business before August 1, 2013, or within ten years from the date of ownership or lease for land acquired after July 31, 2013, this exception ceases and the corporation owning or leasing such lands shall thereafter be subject to this chapter."

Renumber accordingly

**Example 6 - Amendments Adding and Amending a Subsection of Existing Law to a Bill**

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1658

Page 1, line 2, after the semicolon insert "to amend and reenact subsection 7 of section 57-39.2-01 of the North Dakota Century Code, relating to imposition of sales and use taxes on the price of services to repair or clean automobiles or trucks;"

Page 1, replace lines 19 through 28 with:

**"SECTION 2. AMENDMENT.** Subsection 7 of section 57-39.2-01 of the North Dakota Century Code is amended and reenacted as follows:

7. "Retail sale" or "sale at retail" means the any of the following:
  - a. The sale, including the leasing or renting, to a consumer or to any person for any purpose, other than for processing or for resale, of tangible personal property; ~~the~~
  - b. The sale of steam, gas, and communication service to retail consumers or users; ~~the~~
  - c. The ordering, selecting, or aiding a customer to select any goods, wares, or merchandise from any price list or catalog, which the customer might order, or be ordered for such customer to be shipped directly to such customer; ~~the~~
  - d. The sale or furnishing of hotel, motel, or tourist court accommodations, tickets, or admissions to any place of amusement, athletic event, or place of entertainment, including the playing of any machine for amusement or entertainment in response to the use of a coin; ~~and the~~
  - e. The sales of magazines and other periodicals. . . ."

Renumber accordingly

**Example 7 - Amendments Adding a New Subsection to an Engrossed Bill Creating  
New Law**

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1318

Page 8, after line 2, insert:

"10. Any individual who markets or distributes food, food materials, or dietary supplements and engages in the explanation of the use of those products for general nutritional needs, if the individual does not represent that the individual is a licensed registered dietitian or licensed nutritionist."

Renumber accordingly



## Example 8 - Amendments Providing for an Amendment in the Alternative

### PROPOSED AMENDMENTS TO HOUSE BILL NO. 1432

Page 1, line 2, after "Code" insert "or in the alternative to amend and reenact the new section to chapter 4-35 of the North Dakota Century Code as created by section 1 of Senate Bill No. 2137, as approved by the sixty-third legislative assembly,"

Page 2, line 4, replace "Section" with "If Senate Bill No. 2137 does not become effective, section"

Page 2, after line 23, insert:

**"SECTION 3. AMENDMENT.** If Senate Bill No. 2137 becomes effective, the new section to chapter 4-35 of the North Dakota Century Code, as created by section 1 of Senate Bill No. 2137, is amended and reenacted as follows:

**Reports of loss through pesticide application required.**

No civil action may be commenced arising out of the application of any pesticide by any applicator inflicting damage on property other than property with the target area of the pesticide application, unless the claimant has filed a verified report of loss with the agriculture commissioner, together with proof of service of the verified report of loss upon the applicator allegedly responsible and, if the claimant is not the person for whom the work was done, then also the person for whom the work was done, within a period of sixty days from the occurrence of the loss or within sixty days from the date the claimant knew the loss had occurred. If the damage is alleged to have been occasioned to growing crops, the report must be filed prior to the time when fifty percent of the crop was harvested. If, however, the applicator does not inform the claimant of the legal requirements for the claimant to file a verified report of loss, the claimant shall have one year from the date of the incident to file a verified report of loss. No verified report of loss is required when the claimant was the operator or applicator of the herbicide, insecticide, fungicide, or agricultural chemical."

Renumber accordingly

## Example 9 - Amendments to Amendments That Appear in the Journal but Have Not Been Adopted

### PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1404

That the proposed amendments to Engrossed House Bill No. 1404 as printed on pages 1939-1946 of the Senate Journal be amended as follows:

Page 1939 of the Senate Journal, line 35, after "2013" insert ", to provide relief from mortgage foreclosure and cancellations of contracts for deed on agricultural property, to provide for extended periods of redemption and other equitable relief,"

Page 1939 of the Senate Journal, line 40, remove "and"

Page 1939 of the Senate Journal, line 41, after "4-36-25," insert "32-19-18, 32-19-20, and 32-19.1-04.1"

Page 1939 of the Senate Journal, line 41, after "Act" insert "and periods of redemption and notice before foreclosure"

Page 1939 of the Senate Journal, line 41, after the semicolon insert "to provide an expiration date;"

Page 1946 of the Senate Journal, after line 8, insert:

#### **"SECTION 18.**

##### **Definitions.**

For the purpose of sections 17 through 27 of this Act, unless the context otherwise requires:

1. "Agricultural property" means any tract more than ten acres [4.05 hectares]."

Renumber accordingly

## Example 10 - Hoghouse Amendment

### PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1577

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subsection to section 15-38-07 of the North Dakota Century Code, relating to required subjects of instruction in all schools.

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

**SECTION 1.** A new subsection to section 15-38-07 of the North Dakota Century Code is created and enacted as follows:

Give instruction in basic cardiopulmonary resuscitation in accordance with standards adopted by the American heart association, American red cross, or another similar cardiopulmonary resuscitation training program."

Renumber accordingly

**NOTE:** Use of hoghouse amendments is discouraged. See page 63.

**Example 11 - Amendments Replacing a Substantial Amount of Material**

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1171

Page 1, after line 7, replace the remainder of the bill with:

**~~"21-03-22. Registration, certification, and delivery~~Recording of bonds.**

After the bonds have been executed, they ~~shall~~must be delivered to the county auditor, except in cities or school districts or park districts having a population of more than four thousand, in which cities, school districts, or park districts they ~~shall~~must be delivered to the auditor, clerk, or secretary thereof. When ~~such~~the bonds are delivered to the county auditor, there ~~shall~~must be delivered to ~~him~~the county auditor a certified copy of the resolution of the governing body showing their sale. The county auditor, or the auditor, clerk, or secretary of a city, school district, or park district having a population of more than four thousand, upon receipt of ~~such~~the bonds, shall ~~register~~record, in a separate book provided for the purpose, an accurate description of every bond so issued, ~~specifying its number, date, purpose, amount, rate of interest, when and where payable, and the coupons attached.~~ In all cases where the ~~registering~~recording officer is not the ~~recording~~an officer of the governing body of the municipality issuing the bonds, there also ~~shall~~must be filed ~~with him~~ a certified copy of all proceedings of the municipality relating to ~~such~~the issue. When the transaction relating to the sale of ~~said~~the bonds is to be consummated, there ~~shall~~must be delivered to the ~~registering~~recording officer a detailed financial statement of the municipality given by the ~~treasurer~~auditor, clerk, or secretary of the municipality under oath. When ~~such~~the bonds have been ~~fully registered~~recorded as required by this section, and when ~~he~~the recording officer has received ~~such~~the detailed financial statement of the municipality, the ~~registering~~recording officer shall sign an endorsement on the back of each bond certifying that ~~such~~the bond is ~~registered~~fully recorded in ~~his~~that office, and, if ~~such is the truth,~~ that ~~such~~the bond is issued in accordance with law and is within the debt limit of the municipality issuing the ~~same~~bond. No bond ~~shall be~~ valid without ~~such~~the certificate endorsed thereon. ~~When the bonds have been so registered and certified, such registering and certifying . . . ."~~

Renumber accordingly

**NOTE:** Use of this type of amendment is discouraged unless clarity is enhanced.

## Example 12 - Amendments to an Engrossed Concurrent Resolution

### PROPOSED AMENDMENTS TO ENGROSSED SENATE CONCURRENT RESOLUTION NO. 4002

Page 2, line 1, replace "2013" with "2015"

Page 3, line 2, replace "July 1, 2013" with "January 1, 2014"

Page 3, line 13, replace "implementing" with "designing and developing"

Renumber accordingly

**Example 13 - Hoghouse Amendment to a Resolution for a Constitutional Amendment**

PROPOSED AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4043

Page 1, line 1, after "resolution" replace the remainder of the resolution with "for the amendment of sections 1 and 10 of article X of the Constitution of North Dakota, relating to property tax levies and substituting, for the mill levy currently provided for the North Dakota medical center, a statewide mill levy for defraying certain expenses for the construction, operation, and maintenance of certain airports; and providing an effective date.

**STATEMENT OF INTENT**

This measure substitutes, for the one-mill levy for the North Dakota medical center, a statewide one-mill levy to provide funding for construction, operation, and maintenance of air carrier airports. The measure provides an effective date of July 1, 2014.

**BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:**

That the following proposed amendments to sections 1 and 10 of article X of the Constitution of North Dakota are agreed to and must be submitted to the qualified electors of North Dakota at the primary election to be held in 2014, in accordance with section 16 of article IV of the Constitution of North Dakota.

**SECTION 1. AMENDMENT.** Section 1 of article X of the Constitution of North Dakota is amended and reenacted as follows:

**Section 1.** ~~The~~ Except as otherwise provided in this article, the legislative assembly ~~shall be prohibited from raising~~ may not raise revenue to defray the expenses of the state through the levying of a tax on the assessed value of real or personal property.

**SECTION 2. AMENDMENT.** Section 10 of article X of the Constitution of North Dakota is amended . . . ."

Renumber accordingly

**NOTE:** Use of hoghouse amendments is discouraged. See page 63.

## Example 14 - Amendments to a Resolution to Provide for an Alternative Constitutional Amendment

### PROPOSED AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4021

Page 1, line 2, after the comma insert "or in the alternative for the amendment of the new section to the new article V of the Constitution of North Dakota as created by section 4 of House Concurrent Resolution No. 3003, as approved by the sixty-third legislative assembly,"

Page 1, line 10, after "Dakota" insert "if House Concurrent Resolution No. 3003, as approved by the sixty-third legislative assembly, having been submitted to the voters, is not approved in the primary election held in 2014, or the following proposed amendment to the new section to the new article V of the Constitution of North Dakota if House Concurrent Resolution No. 3003 is approved at the primary election,"

Page 1, after line 22, insert:

**"SECTION 2. AMENDMENT.** The new section to the new article V of the Constitution of North Dakota as created by section 4 of House Concurrent Resolution No. 3003, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

The qualified electors shall choose the elected state officials at a time designated by the legislative assembly. The elected state officials shall serve until their successors are duly qualified. Terms of office are four years, except that terms of the public service commissioners are six years, so arranged that one of them is elected every two years. The term of the governor begins on December fifteenth following the governor's election.

If two or more candidates for any executive office receive an equal and highest number of votes, the legislative assembly in joint session shall choose one of them for the office."

Renumber accordingly

**Example 15 - Conference Committee Amendments Acceding to Previous Amendments and Further Amending the Engrossed Bill**

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2178

That the Senate accede to the House amendments as printed on pages 1689 and 1690 of the Senate Journal and pages 2101 and 2102 of the House Journal and that Engrossed Senate Bill No. 2178 be further amended as follows:

Page 14, line 34, after the underscored period insert "However, unclaimed intangible property held for the owner by a public employee pension program in this state is not subject to abandonment under this Act until after June 30, 2013."

Renumber accordingly



## Example 16 - Amendments to a Bill That Has Been Amended but Not Passed or Engrossed

### PROPOSED AMENDMENTS TO HOUSE BILL NO. 1522

In lieu of the amendments adopted by the Senate as printed on page 1558 of the Senate Journal, House Bill No. 1522 is amended as follows:

Page 1, line 1, after the first "the" insert "discretionary"

Page 1, line 1, after "revocation" insert ", and subsequent discretionary reinstatement, by executive order of the governor,"

Page 1, line 3, after the semicolon insert "to provide an expiration date;"

Page 1, line 7, after "The" insert "governor, by executive order, may revoke the"

Page 1, line 12, remove "are hereby revoked"

Page 1, line 12, after the period insert "Revocation of the permit and certificate pursuant to this Act by the governor must be based upon relevant statutory guidelines, including the factors considered in the issuance of a certificate of public convenience and necessity and the factors to be considered in evaluating applications and designations of sites, corridors, and routes as provided in section 49-22-09, and upon the governor's determination that the MANDAN project is not consistent with the public convenience and necessity of this state, or is not consistent with the general health and welfare of the citizens of this state. If the permit and certificate are revoked pursuant to this Act, the governor, by executive order, may reinstate the permit and certificate based upon the guidelines provided for revocation."

Page 1, after line 13, insert:

**"SECTION 2. EXPIRATION DATE.** This Act is effective through June 30, 2017, and after that date is ineffective."

Renumber accordingly

## Example 17 - Division of the Question on Amendments

### PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2048

#### DIVISION A

Page 1, line 3, remove "real property or"

Page 1, line 11, after "appropriation" insert "; to provide an appropriation; and to declare an emergency"

Page 1, line 17, remove "real property or"

Page 1, line 19, replace "fee simple" with ", pursuant to legislative authorization,"

Page 1, remove line 20

Page 1, line 25, remove "real"

Page 1, line 26, remove "property or"

Page 2, line 8, remove "real property or"

Page 2, line 11, remove "real"

Page 2, line 12, remove "property or"

Page 2, line 14, remove "real property or"

Page 2, line 22, remove "real"

#### DIVISION B

Page 2, line 10, after the period insert "The office of management and budget may enter agreements with the industrial commission for the issuance by the industrial commission of certificates of participation under this subdivision."

Renumber accordingly

## Example 18 - Amendments to Correct and Revise the Journal

### CORRECTION AND REVISION OF THE JOURNAL

**MR. SPEAKER:** Your **Committee on Correction and Revision of the Journal (Rep. Blank, Chairman)** has carefully examined the Journal of the Thirty-first Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 737, line 26, replace "for a" with "to provide"

Page 737, line 26, replace "service" with "services"

Page 737, line 28, replace "for a" with "services"

**REP. BLANK MOVED** that the report be adopted, which motion prevailed.

## Example 19 - Amendments Redesignating Subsections and Subdivisions

### PROPOSED AMENDMENTS TO SENATE BILL NO. 2296

Page 1, line 19, overstrike "Through December 31, 1983, four cents per gallon"

Page 1, overstrike lines 20 through 24

Page 1, line 25, overstrike "c. From January 1, 1985, through"

Page 1, line 25, remove "June 30"

Page 1, line 25, overstrike the third comma

Page 1, overstrike lines 26 and 27

Page 2, line 1, overstrike "d."

Page 2, line 1, remove the overstrike over "~~June 30~~"

Page 2, line 2, remove "December 31"

Page 2, line 2, overstrike "1992" and insert immediately thereafter "2013"

Page 2, line 5, overstrike "e." and insert immediately thereafter:

"b. From July 1, 2013, through December 31, 2017, four cents per gallon [3.79 liters] less than the tax imposed under subsection 1.

c."

Page 2, after line 6, insert:

"3. The tax reduction allowed under this section applies only to gasoline that contains alcohol manufactured in the United States."

Page 2, line 7, replace "f." with "4."

Page 2, line 7, replace "in" with "under"

Page 2, line 30, overstrike "3." and insert immediately thereafter "5."

Page 2, line 32, overstrike "4." and insert immediately thereafter "6."

Renumber accordingly

## **Example 20 - Amendments in Addition to Amendments Already Adopted**

### PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1548

In addition to the amendments adopted by the Senate as printed on pages 1576 and 1577 of the Senate Journal, Engrossed House Bill No. 1548 is further amended as follows:

Page 5, line 29, replace "This" with "Sections 1, 2, 3, and 5 of this"

Page 5, line 29, replace "becomes" with "become"

Page 5, line 30, after "2011" insert "and section 4 of this Act becomes effective on July 1, 2013"

Renumber accordingly



# PART 5 - STYLE AND GRAMMAR GUIDELINES

## STATEMENTS OF INTENT OR PURPOSE

**A statement of legislative policy, purpose, or intent should not be used.** The purpose of a properly drafted bill should be self-evident. Statements contained in a declaration of finding or intent may be used for a purpose unintended by the drafter. The North Dakota Supreme Court has referred to declaration of intent in finding a statute unconstitutional. For discussions of specific legislative intent statements see *Dickie v. Farmers Union Oil Co.*, 611 N.W.2d 168 (N.D. 2000), *Hanson v. Williams County*, 389 N.W.2d 319 (N.D. 1986), and *Arneson v. Olson*, 270 N.W.2d 125 (N.D. 1978) (statutes held unconstitutional). See also AGO 99-04 (state agency's general authority limited by statement of purpose) and AGO 2007-L-11 (quoting *Heller v. Doe by Doe*, 509 U.S. 312 (1993), "A statute is presumed constitutional and the burden is on the one attacking the legislative arrangement to negative every conceivable basis which might support it . . ."). For a discussion of the effect of not having a specific intent statement see *Bellemare v. Gateway Builders, Inc.*, 420 N.W.2d 733 (N.D. 1988) (statute found to be constitutional).

## DEFINITIONS

The purpose of a definition is to achieve clarity and consistency and avoid repetition. Once a term is defined in a bill, that term should be used throughout the bill and the definition of that term should remain the same throughout the bill.

Chapter 1-01 contains general principles and definitions applicable to the entire Century Code. Review the definitions contained in that chapter prior to creating and adding new definitions to a statutory provision. Review definitions applicable to the Century Code title and chapter in which the substance of a bill is located. Avoid duplicating definitions.

Do not define words that are self-explanatory. Definitions are shortcuts to save space in the statutes. For this reason, it is not necessary to define "attorney general" as "the attorney general of this state". However, shorten internal references used several times in a bill by defining such things as "department" instead of using "state department of health".

A definition should not include more than is needed for interpretation. Do not include regulatory material in a definition. For example, when defining the word "director", do not state the duties of the director. Put such material in a different section of the bill.

An exhaustive definition uses the word **means** while a partial listing uses the word **includes**. The use of the phrase "means and includes" creates an internal inconsistency because an exhaustive and a nonexclusive definition cannot be contemplated at the same time (*Hilton v. N.D. Educ. Assn.*, 655 N.W.2d 60 (2002)). **Do not use** the phrase "includes, but is not limited to . . ." "Includes" is not a term of limitation. Use of this phrase calls into question the meaning of "includes" elsewhere in the Century Code.

A section containing definitions should have the definitions in alphabetical order to assist readers in locating appropriate definitions.

An example of language used to introduce a series of definitions is as follows:

For purposes of this (title, chapter, section, etc.), unless the context otherwise requires:

## CONSISTENCY

Be consistent throughout the bill or resolution. For example, do not refer to the "state engineer" in one sentence and the "chief engineer" in another sentence when referring to the same official. Be consistent in the use of ordinary words. For example, do not use "minor" in one sentence, "child" in another, and "juvenile" in another. Use of synonyms adds variety but may cause confusion. Courts will assume that use of different terms was intended to have different purposes.

## GENDER

**Avoid** using **he** or **she** and **his** or **her** when referring to a person affected by a statute. When consistent with the standards of precision and clarity, use sex-neutral words, such as applicant, applicant's, candidate, candidate's, commissioner, commissioner's, individual, individual's, person, person's, etc. With respect to making a law sex neutral, it should be noted that Section 1-01-34 provides that words of one gender include the other genders. In English, gender is related to sex or lack of sex. The genders are masculine, feminine, and neuter, e.g., he, she, and it.

**Avoid** the temptation to create or use an artificial term to avoid gender, such as describing the "chairman" as the "chair" or "chairperson". Use "presiding officer" or other appropriate term.

**Avoid** use of a plural pronoun with a singular subject to avoid gender, such as stating that "a person shall use their discretion . . . ." Use the possessive form of the subject, such as "person's" or think of a way to restate your objective. The phrase "in his discretion" should simply be changed to "may".

## SINGULAR NUMBER

Use the singular number whenever possible. Avoid using phrases containing singular and plural numbers, such as person or persons, rule or rules, statute or statutes, etc. Section 1-01-35 provides that words used in the singular number include the plural and words used in the plural number include the singular, except when a contrary intention plainly appears. Adding "(s)" to the end of a word, in an attempt to make it both singular and plural, is improper.

## ACTIVE VOICE

Use the active voice for conciseness and clarity. Voice indicates the relationship between the verb and its subject. The active voice emphasizes the one performing the action and is more direct. The passive voice emphasizes the receiver of the action and generally results in longer sentences with greater opportunity for ambiguity.

Passive	An order may be issued for payment of the fee by the commissioner to the applicant.
Active	The commissioner may order the applicant to pay the fee.
Passive	The fee must be paid to the commissioner.
Active	The applicant shall pay the fee to the commissioner.

Begin a sentence with a subject and consider who is being authorized, directed, or prohibited to act.

## USE OF SHALL, MUST, MAY, MAY NOT, AND IS ENTITLED TO

**Shall** is used to qualify an active verb. **Must** is used to qualify an inactive verb or an inactive verb in the passive voice.



Use **shall** when you are imposing a duty on a person or body that is the subject in the sentence. Use **shall** in a mandatory or imperative sense. Example: "The licensee **shall** give the debtor a copy of the signed contract." Use **must** in reference to a thing rather than a person and to express status requirements, that is, statements about what people or things must be rather than what they must do. Examples: "The contract **must** contain two signatures." "A candidate **must** be a resident of the county."

Use **may** to confer a power, privilege, or right. Examples: "The applicant **may demand** (power) an extension of time." "The applicant **may renew** (privilege) the application." "The applicant **may appeal** (right) the decision."

Whenever possible an obligation or discretion to act should be positively stated. However, if a right, privilege, or power is intended to be denied, **may not** should be used. Example: "The applicant **may not submit** (active voice) more than one application."

Avoid use of "shall not" and "no person shall" because these phrases mean that **no one is required** to act. A statute that includes one of these phrases negates the obligation but not the permission to act. "A person may not" negates the permission to act and functions correctly as a complete prohibition.

Avoid use of "cannot" because "cannot" means the person referred to does not have the ability or capacity to act.

Avoid using hortatory qualifiers, such as **will**, **should**, and **ought**, in the text of an Act. These terms may be more appropriate in a resolution instead of a bill.

Use **is entitled to** when describing a benefit or right a person may claim or exercise, such as "a state employee is entitled to expense reimbursement. . . ." In these instances, using "shall receive" or similar mandatory phrasing would negate the option of not claiming or exercising a benefit or right.

### USE OF WHICH AND THAT

Use **which** to introduce a nonrestrictive clause. Example: "The application, **which** need not be verified, must be signed by the applicant."

Use **that** to introduce a restrictive clause modifying the **nearest** antecedent. Example: "An application to renew a **license that** has been revoked . . . ."

Use **which** to modify a **remote** antecedent in a restrictive clause. Example: "An **application** to renew a license **which** has been rejected . . . ." Consider rewording the sentence to avoid the use of **which** to modify a remote antecedent in a restrictive clause if the reference is not clear. Example: "If an application to renew a license has been rejected, the application . . . ."

### USE OF SUCH

Do not use **such** as a substitute for "the", "that", "it", "those", "them", or other similar words. Example: "**The** (not **Such**) application must be in the form the court prescribes." Use **such** to express "for example" or "of that kind".

### USE OF IF, WHEN, WHENEVER, AND WHERE

Use **if** regarding a condition that may never occur. Use **when** regarding a condition that is certain to occur.

An appeal may be made to district court **if** it is filed within thirty days.

A court may order opening of the safety deposit box **when** the owner of the box dies.

**Whenever** is appropriate usage if the condition may occur more than once.

**Whenever** an offense is brought to the attention of the state's attorney, the state's attorney shall prosecute the offender.

**Do not** use "where" as a replacement for "if", "when", or "whenever". Use "where" only regarding place.

## USE OF THIS ACT

The words **this Act** are words of art and have a specific meaning in bill drafting. When language in a bill refers to **this Act** it means every provision contained in the bill. If language in a bill refers to **this chapter** it refers to the chapter of the Century Code in which the section is placed. In bills creating only new unnumbered provisions, reference should be to **this Act** not **this chapter**.

## FEDERAL STATUTE AND REGULATION REFERENCES

A bill may adopt by reference an existing law or regulation of the United States. Reference to federal statutes and regulations should be as clear and complete as possible. References to federal laws should include citations to the Public Law, the Statutes at Large, and the United States Code. With respect to federal laws, if one citation is referred to in the state statute, the other parallel federal citations may be placed in brackets. References to federal regulations should cite the Code of Federal Regulations. Examples are:

under Public Law No. 92-75 [85 Stat. 213; 46 U.S.C. 1451 et seq.]

the Federal Boat Safety Act of 1971 [Pub. L. 92-75; 85 Stat. 213; 46 U.S.C. 1451 et seq.]

the Act of Congress entitled . . . [Pub. L. 75-415; 50 Stat. 917; 16 U.S.C. 669 et seq.]

under title 40, Code of Federal Regulations, part 61, section 1  
title XVIII of the federal Social Security Act

[Pub. L. 97-34; 95 Stat. 202; 26 U.S.C. 161(1)7] [5 U.S.C. 7324 et seq.] under  
40 CFR 61.1

**NOTE:** Except for future amendments to federal income tax laws, a bill may not adopt **future** amendments by reference. *State v. Julson*, 202 N.W.2d 145 (N.D. 1972); *Weber v. Weber*, 512 N.W.2d 723, 730-731 (N.D. 1994); *McCabe v. N.D. Worker's Compensation Bureau*, 567 N.W.2d 201 (N.D. 1997); Article X, Section 3, of the Constitution of North Dakota.

## CITATION TO CONSTITUTION, LAWS, AND RULES

An example of a correct reference to a provision of the Constitution of North Dakota is:

section 1 of article IV of the Constitution of North Dakota **not** section 1 of article IV of the Constitution of this state

Examples of correct references to provisions of the Century Code are:

section 1-02-37 **not** section 1-02-37 of this code and **not** section 1-02-37 of the North Dakota Century Code

chapter 1-02 **not** chapter 1-02 of this code and **not** chapter 1-02 of title 1, General Provisions

An example of a correct reference to a provision of the 2009 Session Laws is:  
section 1 of chapter 208 of the 2009 Session Laws

Examples of the correct style of North Dakota Administrative Code citations are:

North Dakota Administrative Code section 36-02-01-17

North Dakota Administrative Code chapter 36-02-01

North Dakota Administrative Code article 36-02

North Dakota Administrative Code title 36

An example of a correct reference to the North Dakota Rules of Civil Procedure is:  
rule 4 of the North Dakota Rules of Civil Procedure

## **ASSIGNMENT OF CENTURY CODE NUMBERS**

**Do not** assign Century Code numbers to those Century Code chapters, sections, or subsections being created by a bill draft without specific prior approval of the number assignment by the Code Revisor of the Legislative Council. Contact the Legislative Council office for this approval, if needed. It is usually not necessary to number Century Code chapters, sections, or subsections being created because the Code Revisor will assign Century Code numbers to unnumbered, newly created permanent laws at the conclusion of the legislative session.

## **OBSOLETE STATUTORY REFERENCES**

If the text of a section to be amended contains an internal statutory reference followed by an asterisk and a note following the section points out that the statute referred to has been repealed or is incorrect, determine what should be done with the reference. Usually the reference can either be deleted (indicated by overstrikes) or deleted and replaced with a correct reference (indicated by overstrikes and underscores).

## **SUBSECTIONS, SUBDIVISIONS, PARAGRAPHS, AND SUBPARAGRAPHS**

A breakdown of statutory material should not be made which would result in only one subsection, subdivision, paragraph, or subparagraph. When subsections and subdivisions are enumerated within a section, begin with 1, 2, 3, etc., for the subsections and lowercased a, b, c, etc., for the subdivisions. If it is necessary to provide a further breakdown, use (1), (2), (3), etc., for paragraphs and (a), (b), (c), etc., for subparagraphs.

The end punctuation following each subsection should be either a semicolon or a period. If possible, use a period instead of a semicolon as punctuation between subsections. Do not use semicolons within the text of a subsection if a semicolon is used as punctuation between subsections. If the requirements are such that only one subsection is required to be met in the law (e.g., when only subsection 1, subsection 2, or subsection 3 is to apply), use wording to the effect that **any of the following** or **any one of the following** apply. If all requirements are to apply, use wording to the effect that **all of the following** are to be met. Of course, use of these terms depends upon the wording and construction of the section.

If the drafter uses semicolons at the end of subsections, subdivisions, or other divisions, there are two important points to observe:

1. Each subsection should begin with a word that ties into the lead-in language; and
2. Only the penultimate subsection should be followed by a semicolon and the word "or" or "and", depending on whether any or all provisions of the subsections must be met.

Every subsection, subdivision, paragraph, and subparagraph must be in indented block style, regardless of whether the section contains introductory language to the subsections. If only one paragraph follows a subsection, the paragraph should not have a paragraph indent. If more than one paragraph follows a subsection, all paragraphs should have a paragraph indent.

Do not refer to subsection 1 "of this section". It is unnecessary to designate the section in which a subsection referred to appears unless it is a section other than the one where the reference appears. Do not refer to "above" or "below", as in the phrase "as described above". **There is no above, below, or any other direction in statutory provisions.** References to language must be to a section, subsection, or other reference that identifies as restrictively as possible what language is intended by the reference.

The first word in every subsection, subdivision, paragraph, and subparagraph should be capitalized. The following example illustrates the indented block style to be used when a section is broken down to less than subdivisions:

- (Subsection)            1. "Employment" includes:
- (Subdivision)            a. Service performed:
- (Paragraph)                (1) In any calendar quarter in the employ of any organization exempt from income tax under section 501 of the federal Internal Revenue Code, if all of the following requirements are met:
- (Subparagraph)            (a) The remuneration for the service exceeds fifty dollars.
- (b) The service is not in connection with the collection of dues or premiums for a fraternal benefit society, order, or association, and is performed away from the home office.

A reference to the location of a statutory provision must be preceded by the correct designation of whether it appears in a subsection, subdivision, paragraph, or other division. Avoid the mistake of referring to "this paragraph" unless you are referring to a numbered portion of a subdivision.

### OFFICIAL TITLES OF PUBLIC ENTITIES

When referring to a public officer, agency, or organization in the text of a bill, use the official and correct title of the officer, agency, or organization. The official title is usually set out in the constitutional or statutory section that creates the position or agency.

There have been numerous changes in the names and titles of agencies, officials, and organizations since the original publication of the Century Code in 1960. The following list is provided for your information:

Do Not Use	Use
Bismarck junior college	Bismarck state college
board for vocational education	state board for career and technical education
board of examiners on audiology and speech pathology	board of examiners on audiology and speech-language pathology
board of pardons	pardon advisory board
board of registry in podiatry	board of podiatric medicine
bureau of criminal identification and apprehension	bureau of criminal investigation
business and industrial development commission	department of commerce
centennial trees program	trees for North Dakota program

Do Not Use	Use
central data processing	information technology department
chief of the bureau of criminal investigation	director of the bureau of criminal investigation
central personnel division	human resource management services
city treasurer	city auditor
civil defense worker	disaster emergency worker
coal development impact office	energy development impact office
commandant (veterans' home)	administrator (veterans' home)
commission on judicial qualifications	commission on judicial conduct
commissioner of agriculture and labor	agriculture commissioner or labor commissioner
commissioner of insurance	insurance commissioner
commissioner of securities	securities commissioner
council on the arts and humanities	council on the arts
county court	district court
county judge	district judge
county justice	district judge
county justice court	district court
county welfare board	county social service board
crime victims reparations	crime victims compensation
dairy products promotion commission	dairy promotion commission
department of accounts and purchases	office of management and budget
department of banking and financial institutions	department of financial institutions
department of corrections	department of corrections and rehabilitation
department of economic development and finance	department of commerce
department of health and consolidated laboratories	state department of health
developmental center at Grafton	developmental center at westwood park, Grafton
Dickinson state college	Dickinson state university
director of institutions	office of management and budget facility management division
director of vocational education	director of career and technical education
division of community services	department of commerce division of community services
division of emergency management	department of emergency services
division of independent study	center for distance education
division of vocational rehabilitation	vocational rehabilitation division
economic development commission	department of commerce division of economic development and finance
employment security bureau	job service North Dakota
extension division	North Dakota state university extension service
family court	district court
farm credit counseling program	agricultural mediation service
game and fish commissioner	director of the game and fish department
Grafton state school	developmental center at westwood park, Grafton
highway commissioner	director of the department of transportation
highway department	department of transportation
industrial school	North Dakota youth correctional center
information services division	information technology department
judicial council	judicial conference
judicial qualifications commission	judicial conduct commission

Do Not Use	Use
labor department lake region community college land department legislative research committee legislature livestock sanitary board Mayville state college mental health and retardation division milk stabilization board Minot state college Minot State University - Bottineau motor vehicle department multicounty welfare districts multidistrict vocational education center municipal bond bank North Dakota respiratory care examining board North Dakota State University - Bottineau North Dakota trade commission office of intergovernmental assistance	department of labor lake region state college department of trust lands legislative council legislative assembly state board of animal health Mayville state university developmental disabilities division milk marketing board Minot state university Dakota College at Bottineau department of transportation multicounty social service districts area career and technology center public finance authority state board of respiratory care  Dakota College at Bottineau  attorney general department of commerce division of community services
outdoor recreation agency parks and tourism department police magistrate poultry improvement board register of deeds registrar of motor vehicles school board treasurer school district clerk school for the blind sheltered workshop advisory committee social service board of North Dakota soldiers' home state auditing board state bar board state board of embalmers state board of hairdressers and cosmetologists state board of vocational education state department of health and consolidated laboratories state developmental center at Grafton state employment service state examiner state farm state federal aid coordinator  state highway commissioner state highway department state industrial school state library commission	parks and recreation department parks and recreation department municipal judge agriculture commissioner recorder director of the department of transportation school board manager school district business manager North Dakota vision services - school for the blind vocational rehabilitation facilities advisory committee department of human services veterans' home office of the budget state board of law examiners state board of funeral service state board of cosmetology  state board for career and technical education state department of health  developmental center at westwood park, Grafton job service North Dakota commissioner of financial institutions Missouri River correctional center department of commerce division of community services director of the department of transportation department of transportation North Dakota youth correctional center state library

Do Not Use	Use
state park service	parks and recreation department
state parks and recreation department	parks and recreation department
state seed mediation board	state seed arbitration board
sunflower council	oilseed council
teacher's insurance and retirement fund	teachers' fund for retirement
tourism department	department of commerce division of tourism
town	city
unemployment compensation division	job service North Dakota
unemployment compensation law	North Dakota unemployment compensation law
references to "this title" in	
chapters 52-01 through 52-07.1	
University of North Dakota -	
Lake Region	lake region state college
University of North Dakota - Williston	Williston state college
Valley City state college	Valley City state university
veterans' aid commission	department of veterans' affairs
village	city
vocational education	career and technical education
water conservation commission	state water commission
water management district	water resource district
weather modification board	atmospheric resource board
workmen's compensation	workforce safety and insurance
workmen's compensation fund	workforce safety and insurance fund

## USE OF MUNICIPALITY

Do not refer to villages. The only type of municipal government customarily referred to as a city, town, or village is a city. Use the term **city** instead of **municipality** when it is intended that the **only** type of government involved is a city. Municipality is a term often used to include different types of political subdivisions and combinations of subdivisions, and such usage is discouraged because of the varied and confusing use of "municipality" in existing law. Seek an alternative term unless "municipality" is defined in the Century Code area in which you are drafting, and then use "municipality" only after close attention to that definition. A May 2006 letter opinion of the Attorney General basically concludes that use of the word municipality is always ambiguous and legislative intent must be examined. *Letter Opinion 2006-L-18*.

## REPETITION

Avoid repetitious language. For example, instead of setting out similar licensing requirements in two very long, nearly identical statutes, the two statutes could be broken into three separate statutes. One statute would contain the requirements applicable to both types of licenses and the dissimilar requirements would comprise the two separate smaller statutes.

## SECTION LENGTH

Each section should cover only one topic. The preferable section length is one short paragraph. A long section may indicate that too much material is covered.

The purpose of a short section is to make it easy to locate everything in the section by reading the caption. A short section also results in index entries that accurately describe the contents of the section.

## BLANKS OR BRACKETED MATERIAL

Although sections of a bill may contain blanks or bracketed material in initial drafts, incomplete bills should not be introduced. There is a danger when introducing a bill with blanks that the bill will inadvertently not be completed and become law in that form.

## WORD USAGE

Bill drafts should be precise and understandable. This is usually achieved by avoiding excessively long sentences, wordiness, and legalese. Never use many words where a few will do. Try to use language used in normal conversation and correspondence. Note the definitions and usage comments in Century Code Chapter 1-01.

Sentences should be no longer than 17 to 21 words to be easily understood. Excessively long sentences make statutes difficult to read and interpret.

Certain words are used in bill drafting either because they sound or look legal and important, or because they have been used since time immemorial. Occasionally some of this legalese may actually be needed, but generally it should be avoided.

The following is a list of some of the words and phrases to avoid in bill drafting and some suggested substitutes:

Avoid Using	Use
provided further <b>or</b> provided however <b>or</b> provided that	except <b>or</b> but <b>or</b> however <b>or</b> start a new sentence (It is better to start a new sentence.)
aforesaid <b>or</b> aforementioned <b>or</b> beforementioned <b>or</b> said	the <b>or</b> that <b>or</b> those
under the provisions of	under
it is lawful to	may
is empowered to	may
is authorized to	may
is hereby authorized to	may
shall have the power to	may
may, in his discretion	may
in no case shall	may not
it is unlawful to	may not
no person may or no person shall	a person may not
is prohibited from	may not
it is his duty to	shall
is required to	shall
is directed to	shall
is hereby authorized and it shall be his duty to	shall
is defined to mean	means
is hereby vested with power and authority and it shall be his duty in carrying out the provisions of this Act to	shall
shall be construed to mean	means
shall mean	means
includes, but is not limited to	includes
means and includes	either word (as appropriate)



Avoid Using	Use
and/or for the reason that in order to in favor of full force and effect absolutely null and void and of no effect null and void bonds, notes, checks, drafts, and other evidences of indebtedness any or all each and all each and every at the time at such time as during such time as until such time as unless and until be and the same is hereby in cases in which in case of in case in conjunction with in the event that formulate prior to during the course of for the duration of subsequent to on or after from and after forthwith give consideration to give recognition to have knowledge of have need of make application make payment enter into an agreement with make provision or, in the alternative sole and exclusive together with utilize whatsoever wheresoever whosoever whensoever	X and Y; X or Y; X or Y, or both because to for force <b>or</b> effect void void evidences of indebtedness either word (as appropriate) either word (as appropriate) either word (as appropriate) when when while until either word (as appropriate) is when <b>or</b> if when <b>or</b> if if with if make before during during after after after immediately consider recognize know need apply pay agree with provide or exclusive with use whatever wherever whoever when <b>or</b> if

The words hereinafter, hereinbefore, hereinabove, above, below, following, or preceding are objectionable when referring to the position of a section or other statutory provisions. If reference is necessary, specify the chapter, section, or subsection.

**Avoid the common error of using "where" when you mean "if".**

## ABBREVIATIONS AND ACRONYMS

Do not use abbreviations or acronyms. All agency names, publications, and other commonly abbreviated words must be spelled out. Compass directions, degrees, latitudes, etc., are spelled out. In plats of territory, spell out township, range, degrees, and minutes. For example:

southeast quarter of section one, township one hundred north, range sixty-five west of the fifth meridian

## CAPITALIZATION

These are the basic rules for determining whether to capitalize a word or phrase for bill drafting purposes:

1. Capitalize the first word in a sentence and the first word paragraphed after a colon, e.g., the first word of a subsection, subdivision, paragraph, and subparagraph.
2. Capitalize proper names, but do not capitalize the names of agencies, boards, commissions, departments, offices, or institutions.
3. Capitalize titles only when preceding a name, e.g., Governor Blake.
4. Capitalize United States and names of states, counties, cities, and townships.
5. Capitalize months and days of the week.
6. Capitalize compilations or codifications of constitutions, statutes, and rules.
7. Capitalize the word Act when referring to a specific legislative enactment.
8. Capitalize references to the Deity.
9. Capitalize names of publications.
10. Lowercase the word or phrase in case of doubt.

**NOTE:** Different rules of capitalization apply when drafting a resolution. Titles of officers and names of agencies are capitalized except within current or proposed text of language to be contained in the Constitution of North Dakota.

Examples of correctly capitalized words or phrases are:

Act of Congress

ACT, Inc.

Administrative Agencies Practice Act

American bar association

Bank of North Dakota

Bible

Bismarck

braille

Cass County

ccbenefits, incorporated

Chatfield Township

city of Bismarck (**Bismarck** is preferred usage)

Commonwealth of Puerto Rico

Congress

Congress of the United States (but **lowercase all other federal agencies**)

Constitution of North Dakota  
Constitution of the United States  
county of Cass (**Cass County** is preferred usage) (when plural, e.g., counties of Morton, Cass, and Ward; Burleigh and Morton Counties)  
federal Internal Revenue Code (**federal** is lowercased unless part of the name)  
federal Social Security Act  
form W-2  
Garrison Diversion Conservancy District  
Garrison diversion unit  
general election  
initiated measure No.  
interim  
internal revenue service  
International Peace Garden  
James River correctional center  
lands and minerals trust fund  
Lewis and Clark bicentennial  
medicaid  
medicare  
Missouri River basin project  
National Building Code  
North Dakota  
North Dakota Administrative Code  
North Dakota Century Code  
North Dakota Development Fund, Incorporated  
North Dakota Rules of Civil Procedure  
North Dakota state fair association  
North Dakota unemployment compensation law  
North Dakota workers' compensation law  
Oahe bridge  
Oahe Reservoir  
of this constitution  
President of the United States  
rocky mountain elk foundation  
rocky mountain interstate compact on low-level radioactive waste  
rule 40 of the North Dakota Rules of Civil Procedure  
schedule C  
section 3 of this Act  
securities and exchange commission  
Senate Bill No. \_\_\_\_\_

state of North Dakota (**North Dakota** is preferred usage)

supreme court

state building code

Three Affiliated Tribes

unemployment compensation law

Uniform Commercial Code

Uniform Controlled Substances Act

Uniform Probate Code

uniform trust code

United States

United States government

United States highway 141

United Tribes

west river water supply district

20\_\_ Session Laws

Unlike capitalization in bills, names of agencies, etc., should be capitalized in resolutions.

## CLOCK TIME AND DATES

Clock time is always written, e.g., nine a.m., twelve noon, four-thirty p.m., or twelve midnight. If month, day, and year are to be used, use numerals, e.g., July 1, 2013. If language follows the year, a comma should be inserted after the year, e.g., July 1, 2013, is the correct date. If only the month and day are used, spell all dates, e.g., December thirty-first. If only the month and year are used, do not insert a comma after the month, e.g., July 2013.

## DOLLAR AMOUNTS

Except in appropriation bills and appropriation sections, spell all amounts, e.g., one thousand two hundred dollars (not twelve hundred dollars); thirty-two dollars and fifty cents. Do not follow with figures in parentheses.

## HYPHENATION

Many words are no longer used with a hyphen, while the use of a hyphen is retained for some words. Do not hyphenate words ending with **ly** used as unit modifiers. For correct word hyphenation, refer to the *United States Government Printing Office Style Manual* or a modern dictionary, preferably *Webster's Third New International Dictionary* or *Black's Law Dictionary*. Examples are:

### - A-B-C-D -

able-bodied

aboveground

accountholder

afterborn

agriculturally related enterprise

air-condition (all forms)

all-terrain

at large

audiovisual

boarding home

bona fide

clock-hour

collocate

commingling

common-law (u.m.)

contract owner

contractholder

cooperate

cooperative

coowner

cost of living

cost-benefit analysis

bowhunter  
branch lines  
byproducts  
caregiver  
carryover (n., u.m.)  
caseload  
catchup  
centerline  
certificate holder  
child care  
child placing (n.)  
child-placing (u.m.)  
classrooms  
clerk-typist

cost-effective (u.m.)  
cost-sharing (n., u.m.)  
coursework  
credit card holder  
credit-hour (u.m.)  
cross section  
crossover  
cross-reference  
database  
date-stamped  
decisionmaking  
defense-dependent (u.m.)  
districtwide

**- E-F-G-H -**

elective-share (u.m.)  
en route  
ex officio  
facility-based (u.m.)  
factfinding  
family-type  
farmland  
federal aid  
federal aid highway  
federal aid road  
federally funded program  
firefighting  
first aid (n.)  
first-aid (u.m.)  
five million dollars' worth  
floodplain  
floodwaters

floodway  
followup (n., u.m.)  
franchise holder  
full-time (u.m.)  
fur-bearing  
good-natured  
grantmaking  
grants-in-aid  
ground water  
half-hour (u.m.)  
hands-on (u.m.)  
haul road  
health care  
high-quality (u.m.)  
home-office (u.m.)  
horse racing  
housebound

**- I-J-K-L -**

income producing (n.)  
income-based  
income-producing (u.m.)  
infrared  
in-kind  
insofar  
interagency  
interest-bearing (u.m.)  
jobsite  
land use  
last-known (u.m.)  
layman  
laymember

layperson  
laywoman  
licenseholder  
lienholder  
life-prolonging (u.m.)  
life-sustaining (u.m.)  
logoff (n., u.m.)  
logon (n., u.m.)  
long-distance (u.m.)  
long-term (u.m.)  
longstanding (u.m.)  
lost-time benefits  
lump sum

**- M-N-O-P -**

machine gun  
managed care

part-time (u.m.)  
passthrough (n., u.m.)

member-control agreement  
members-elect  
micro-organism  
middle-grade  
middle-level  
minimarket  
mobility-impaired (u.m.)  
mortgageholder  
multicounty  
near-poor  
no-fault  
no-mow  
noncancelable  
noncoal  
non-coal-producing  
nonparty  
non-self-propelled  
no-party (u.m.)  
offpremise  
offtrack  
old-age and survivor insurance system  
old-age survivors' fund  
on sale  
one and one-fourth mills  
one and twenty-five hundredths  
one hundred twenty-day period  
one-mill levy  
one-tenth of one mill  
one-year term  
online  
onsite  
overall  
pari-mutuel

past-due (u.m.)  
patent holder  
per centum  
per student  
percent  
permitholder  
per pupil  
phase in (v.)  
phasein (n., u.m.)  
phaseout (n., u.m.)  
pledgeholder  
policy owner  
post mortem (n.)  
post office (building)  
postaward  
post-mortem (u.m.)  
post-office (address, u.m.)  
postreclamation  
postseason  
postsecondary  
preaward  
predisaster  
preemption  
preexisting  
preinjury  
pre-need funeral plan  
pretreatment  
pretrial  
pro rata  
profit-sharing (u.m.)  
prorated  
pull tab

**- Q-R-S-T -**

ranchland  
ratemaking  
receipholder  
recordholder  
recordkeeping  
reelected  
reenacted  
reengrossed  
reexamined  
rereferred  
revenue sharing (n., u.m.)  
revenue-producing  
right of way (n.)  
right-of-way (u.m.)  
riverbed  
rough rider award  
roughrider industries

shutoff (n., u.m.)  
signoff (n., u.m.)  
signon (n., u.m.)  
single plan rate  
single-family (u.m.)  
single-use (u.m.)  
startup  
state unified  
state-chartered  
state-owned  
state-subsidized (u.m.)  
statewide  
submachine gun  
subspecies  
subvoucher  
summer-fallow (v.)  
systemwide

rulemaking  
school board  
school-age (u.m.)  
schoolbus  
schoolteacher  
second hand (n.)  
secondhand (adv., u.m.)  
securityholder  
self-esteem (n.)  
setoff (n., u.m.)  
sewerline

ten days' notice  
thirty-two dollar fee  
three dollar fee  
titleholder  
toll-free (u.m.)  
ton-mile  
top light  
tort-feasor  
trademark  
truck tractor (n.)

**- U-V-W-X-Y-Z -**

ultrahigh  
value-added impact study  
vice chairman  
vice presidency  
vice president  
warrant-check  
washrooms  
waste hauler  
wastewater

watermark  
website  
well baby care  
well bore  
well site  
well-being  
worked-over (u.m.)  
workflow  
work-over (u.m.)

## **METRIC MEASUREMENT EQUIVALENTS**

Section 46-03-10 requires the Legislative Council office to insert equivalent metric measurements in brackets wherever references to customary weights and measures appear in the laws of this state. The Legislative Council office will insert metric measurement equivalents in legislative enactments prior to codification if the enactment does not contain metric measurement equivalents and insertion of equivalents will not cause confusion or problems in readability. Do not use any commas in metric equivalents, e.g., [78924.35].

## **NUMBERS**

Except for citation to statutes, rules, or executive orders, spell out all numbers. Spell out percentages, e.g., fifty percent, one hundred twenty-five percent. Do not follow with figures in parentheses. When it is necessary to avoid confusion when two numbers occur together, write ten 12-room houses, twelve 6-inch guns, one 100-pound weight, etc.

Exception: In resolutions use the numbers, but write out numbers nine and below, except an age or page number, e.g., 70 percent, seven years, 2 years of age.

## **ORTHOGRAPHY**

For word spellings and word divisions, use the *United States Government Printing Office Style Manual*, or a modern dictionary, preferably *Webster's Third New International Dictionary* or *Black's Law Dictionary*. Preferred spellings for some common words with alternate spelling are as follows:

accessible  
acknowledgment  
adviser  
analog  
archaeology  
baptisteries  
benefited

judgment  
kidnapping  
labeling  
liquefied  
liquefy  
marijuana  
marshal (n.)

briquette	marshall (v.)
canceled	occasion
canceling	payer
cancellation	requester
cargoes	rescission
collectible	sulfur
computer disk	supersede
drought	theater
ensure	totaled
impaneled	transferable
impaneling	traveled
indeterminable	uncollectible
intervenor	usable
inure	

## PUNCTUATION

Observe grammatical rules in punctuation. Punctuate when it will clearly aid understanding, but avoid overpunctuation. Colons and semicolons should be placed inside the quotation marks only when they are a part of the quotation; otherwise place them outside the quotation marks.

In legislative drafting and certain other classes of work showing amendments, all punctuation marks are placed after the quotation marks when not a part of the quoted matter. For example:

"Slingshot" does not include a device commonly known as a "zipgun".

Delete the words "one, two,", "seven", and "eight" and insert the word "several".

The comma is used to separate the units of a series of similar expressions. Letters, words, phrases, clauses, figures, and signs should be separated by commas. When the last two units of a series are connected by a conjunction, i.e., "and" or "or", use a comma before the conjunction. If the units of a series are all regularly connected by conjunctions, then no commas are necessary.

**Do not use quotation marks to designate colloquial or informal use of words or phrases.** Quotation marks will not repair imprecise or undefined usage.

**Do not use parentheses in statutes.** Parentheses are often used by inexperienced drafters to give an example or to provide an alternative restatement of language used. If you feel the urge to insert a parenthetical, you should reconsider the language you are attempting to explain.



## PART 6 - INDEX

### ABBREVIATIONS AND ACRONYMS

prohibition..... 100

### ACT

use of term "this Act"..... 92

### ACTIVE VOICE

use..... 90

### AGENCIES

bill draft filing ..... 1

correct name ..... 94

### AMENDING CLAUSE

effective date notation sections..... 20

initiated measure amendments..... 14

language required ..... 14

session law amendments..... 14

special requirements ..... 15

subsections amended ..... 14

### AMENDMENT EXAMPLES

additional section inserted in engrossed bill ..... 69

amendment in addition to amendments already adopted..... 87

amendment in the alternative..... 75

amendment to amendment in journal but not adopted ..... 76

bill as introduced amended ..... 68

conference committee amendments..... 82

correction and revision of the journal..... 85

division of the question on amendments..... 84

effective date clause inserted in reengrossed bill ..... 70

engrossed concurrent resolution..... 79

hoghouse..... 77

hoghouse to resolution for constitutional amendment ..... 80

in lieu of amendment..... 83

line item appropriation inserted in engrossed bill..... 71

new subsection added to engrossed bill with new law ..... 74

redesignating subsections and subdivisions..... 86

resolution for alternative constitutional amendment ..... 81

section of existing law added and amended..... 72

subsections of existing law added and amended ..... 73

substantial material replaced ..... 78

### AMENDMENTS

bill amended but not engrossed..... 63

conference committee reports and amendments ..... 64

correcting internal references..... 59

correcting the amending or creating clause ..... 59

correcting the title..... 59

examples..... 67

existing language removed ..... 60

existing language removed and proposed language added ..... 61

existing language removed and proposed language removed ..... 60

existing section of law inserted ..... 61

format ..... 62

heading..... 59

hoghouse..... 63

inserting or removing subsections or subdivisions ..... 61

language added to bill..... 60

last line .....	61
proper version .....	59
proposed new language replaced .....	60
reinstating existing language proposed to be removed by overstrikes .....	60
<b>AND/OR</b>	
prohibition .....	99
<b>APPROPRIATION</b>	
bill example .....	42
clause format .....	17
<b>BILL EXAMPLES</b>	
alternate versions with effective dates .....	46
alternative section amendment .....	44
appropriation .....	42
appropriation to a specific entity .....	43
bill that amended a section amended .....	36
bill that created a numbered section amended .....	38
bill that created an unnumbered section amended .....	37
caption amended .....	41
clause order illustrated .....	22
federal law incorporated by reference .....	47
law created .....	27
numbered chapter created .....	29
numbered section created .....	31
numbered subsection created .....	33
repeal of a chapter .....	35
repeal of a section .....	34
section amended .....	23
session laws section amended .....	26
subsection amended .....	24
subsection deleted .....	39
subsection inserted .....	40
subsections amended .....	25
uniform law adopted .....	45
unnumbered chapter created .....	28
unnumbered section created .....	30
unnumbered subsections created .....	32
<b>BILLS</b>	
agency filing .....	1
amending clause .....	13
appropriation clause .....	17
body requirements .....	13
caption .....	16
century code drafting and interpretation .....	8
constitutional considerations .....	5
creating clause .....	15
drafting manual .....	2
effective date clause .....	18
emergency clause .....	19
enacting clause .....	12
examples .....	21
expiration date clause .....	19
form and style checklist .....	2
introduction .....	1
legislative assembly rules .....	9
legislative council approval .....	2
overstrike and underscore .....	13
penalty clause .....	17

repealer clause.....	17
restrictions on legislation.....	9
retroactive application clause.....	19
savings or constitutionality clause.....	16
section identification number.....	13
section order.....	12
session identification.....	11
short title clause.....	20
sponsor identification.....	11
subject matter.....	6
suspending clause.....	17
title requirements.....	11
<b>BLANKS OR BRACKETED MATERIAL</b>	
prohibition.....	98
<b>CAPITALIZATION</b>	
basic rules.....	100
<b>CAPTION</b>	
bill example.....	41
requirements and use.....	16
<b>CENTURY CODE</b>	
assignment of century code numbers.....	93
caption.....	8
drafting and interpretation.....	8
restrictions on legislation.....	9
retroactivity.....	8
source note.....	8
<b>CITATIONS</b>	
constitution, laws, and rules.....	92
<b>CLAUSES - see SPECIAL CLAUSES</b>	
<b>CLOCK TIME</b>	
written out.....	102
<b>CONFERENCE COMMITTEES</b>	
reports and amendments.....	64
<b>CONSISTENCY</b>	
importance.....	90
<b>CONSTITUTION</b>	
North Dakota constitution bill drafting considerations.....	6
resolution for constitutional amendment.....	56
United States constitution bill drafting considerations.....	5
<b>CONSTITUTIONALITY CLAUSE</b>	
use discouraged.....	16
<b>CREATING CLAUSE</b>	
language required.....	15
special clauses.....	16
subsections created.....	16
<b>DATES</b>	
proper form.....	102
<b>DEFINITIONS</b>	
applicable to entire code.....	8
format.....	89
<b>DOLLAR AMOUNTS</b>	
form.....	102
<b>EFFECTIVE DATE</b>	
notation in section.....	20
<b>EFFECTIVE DATE CLAUSE</b>	
constitutional considerations.....	7
format.....	18

retroactive.....	19
sections with effective date notations .....	20
<b>EMERGENCY CLAUSE</b>	
format .....	19
<b>ENACTING CLAUSE</b>	
bill requirements.....	12
<b>EXAMPLES - see BILL EXAMPLES, RESOLUTION EXAMPLES, OR AMENDMENT EXAMPLES</b>	
<b>EXPIRATION DATE CLAUSE</b>	
format .....	19
<b>FEDERAL STATUTE AND REGULATION REFERENCES</b>	
adoption.....	92
<b>GENDER</b>	
sex-neutral terms .....	90
<b>HEADNOTE</b>	
use.....	8
<b>HYPHENATION</b>	
use.....	102
<b>IF, WHEN, WHENEVER, AND WHERE</b>	
use.....	91
<b>INITIATED MEASURE</b>	
amending clause .....	13
<b>INTENT</b>	
constitutional amendments .....	50
statements of intent discouraged .....	89
<b>LEGISLATIVE ASSEMBLY</b>	
rules.....	9
<b>LEGISLATIVE COUNCIL</b>	
repealer clause drafting assistance .....	17
<b>LEGISLATIVE MANAGEMENT</b>	
resolution urging study.....	53
<b>MAY, MAY NOT, IS ENTITLED TO, SHALL, AND MUST</b>	
use.....	90
<b>METRIC MEASUREMENT</b>	
equivalents .....	105
<b>MUNICIPALITY</b>	
use of term .....	97
<b>NORTH DAKOTA CENTURY CODE - see CENTURY CODE</b>	
<b>NORTH DAKOTA CONSTITUTION</b>	
drafting considerations.....	6
<b>NUMBERS</b>	
spelling out .....	105
<b>OBSOLETE REFERENCES</b>	
public entities .....	94
statutory changes.....	93
<b>OFFICIAL TITLES OF PUBLIC ENTITIES</b>	
correct use.....	94
<b>ORTHOGRAPHY</b>	
preferred spelling .....	105
<b>OVERSTRIKE</b>	
removed material .....	13
<b>PENALTY CLAUSE</b>	
format .....	17
<b>PLURAL NUMBER</b>	
singular used.....	90
<b>PUBLIC ENTITIES</b>	
official titles.....	94

<b>PUNCTUATION</b>	
grammatical rules .....	106
<b>REFERENCES</b>	
federal statutes and regulations .....	92
<b>RENUMBER</b>	
renumber accordingly .....	61
<b>REPEALER CLAUSE</b>	
bill example .....	34, 35
format .....	17
legislative council drafting assistance required .....	17
<b>REPETITIOUS LANGUAGE</b>	
avoidance .....	97
<b>RESOLUTION EXAMPLES</b>	
congratulatory .....	55
congressional action urged .....	52
constitutional amendment .....	56
creation of new section to constitution .....	57
legislative management study .....	53
memorial .....	54
<b>RESOLUTIONS</b>	
body .....	50
concurrent .....	49
examples .....	51
heading .....	49
memorial .....	49
preamble .....	50
resolving clause .....	50
session identification .....	49
single house .....	49
sponsor identification .....	50
statement of intent .....	50
<b>RETROACTIVITY</b>	
application clause .....	19
<b>SAVINGS CLAUSE</b>	
use discouraged .....	16
<b>SECTION IDENTIFICATION NUMBER</b>	
requirement .....	13
<b>SECTION LENGTH</b>	
requirement .....	97
<b>SECTIONS - see BILLS</b>	
<b>SESSION IDENTIFICATION</b>	
bill requirements .....	11
resolution requirements .....	49
<b>SESSION LAWS</b>	
amendment example .....	26
bill amending clause .....	13
<b>SHALL, MUST, MAY, MAY NOT, AND IS ENTITLED TO</b>	
use .....	90
<b>SHORT TITLE CLAUSE</b>	
use discouraged .....	20
<b>SINGULAR NUMBER</b>	
plural included .....	90
<b>SOURCE NOTE</b>	
use .....	8
<b>SPECIAL CLAUSES</b>	
appropriation clause .....	17
effective date clause .....	18

emergency clause .....	19
expiration date clause .....	19
order in title .....	12
penalty clause .....	17
repealer clause.....	17
retroactive application clause.....	19
savings or constitutionality clause.....	16
short title clause .....	20
suspending clause .....	17
<b>SPONSOR IDENTIFICATION</b>	
bill requirements.....	11
resolution requirements.....	50
<b>STATEMENT OF INTENT</b>	
constitutional amendments .....	50
use in bills discouraged.....	89
<b>SUBSECTION - see also BILLS</b>	
breakdown.....	93
<b>SUCH</b>	
use.....	91
<b>SUSPENDING CLAUSE</b>	
limited use .....	17
<b>TEMPORARY PROVISIONS</b>	
not codified .....	14
<b>THAT AND WHICH</b>	
use.....	91
<b>THIS ACT</b>	
use of term .....	92
<b>TIME</b>	
written out.....	102
<b>TITLE</b>	
bill requirements.....	11
example.....	12, 22
order of special clauses .....	12
<b>UNDERScore</b>	
new material added.....	13
special clauses.....	16
<b>UNIFORM ACT</b>	
creation example.....	45
<b>UNITED STATES CONSTITUTION</b>	
drafting considerations.....	5
<b>VOICE</b>	
active vs. passive .....	90
<b>WHEN, WHENEVER, WHERE, AND IF</b>	
use.....	91
<b>WHICH AND THAT</b>	
use.....	91
<b>WORDS</b>	
use suggestions .....	98

