Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 1
General Provisions
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 1. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

House Bill No. 1065 provides that when the day required by law for performing an act falls on a Saturday, the act may be performed on the next business day. The bill also provides that the period of five to seven days in which the Secretary of State and Attorney General must review an initiative or referendum petition does not include Saturdays.

Senate Bill No. 2365 requires the Governor to issue an annual proclamation designating the first Sunday of February as Four Chaplains Sunday in honor of four United States Army chaplains who died to save other servicemen on a troop transport sunk in 1943.

Senate Bill No. 2071 allows state agencies with a duty of receiving documents to accept those documents filed by electronic means and requires the Secretary of State to adopt administrative rules to govern methods for signing documents filed electronically, except documents filed with the Tax Commissioner.

Prepared by the North Dakota Legislative Council staff
April 1997

TITLE 2
Aeronautics
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 2. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

Senate Bill No. 2145 authorizes the Aeronautics Commission to order a cease and desist order against an aerial sprayer and gives the commission the authority to enforce the order through a civil penalty not to exceed $500 per violation.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 3
Agency
Summary of Bills Enacted by 1997 Legislative Assembly

There was no legislation enacted that primarily affected North Dakota Century Code Title 3. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

Prepared by the North Dakota Legislative Council staff
April 1997

TITLE 4
Agriculture
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 4. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

Senate Bill No. 2019 makes the Agricultural Products Utilization Commission a division of the Department of Economic Development and Finance.

Senate Bill No. 2024 changes statutory references from county agent to extension agent.

Senate Bill No. 2025 changes statutory references from research centers to research extension centers and provides that each center will be under the supervision of a center director, rather than a superintendent.

Senate Bill No. 2064 creates a State Board of Agricultural Research and provides for the apportionment of the proceeds of the agricultural research fund among the various commodity groups for research purposes.

Senate Bill No. 2083 continues the agricultural pesticide and pesticide container disposal program until August 1, 1999.

Senate Bill No. 2124 creates the Dry Pea and Lentil Council and provides for a refundable assessment of one percent of the net value of dry peas and lentils grown in the state or sold to a first purchaser in the state.

Senate Bill No. 2172 provides that persons running for the office of soil conservation district supervisor must file a mailing address, rather than merely a post-office address, with the county auditor and removes the requirement that all ballots cast in a referendum regarding the consolidation of two or more soil conservation districts be mailed to the secretary of the State Soil Conservation Committee for verification.

House Bill No. 1009 raises the Agriculture Commissioner's salary from $53,843 to $55,464 through June 30, 1998, and to $57,120 thereafter.

House Bill No. 1059 eliminates the Poultry Advisory Board.

House Bill No. 1088 provides that the supervisors of soil conservation districts are entitled to receive up to, rather than, $25 for attending meetings or other events in the performance of their official duties and that such compensation and reimbursement must come from district funds, rather than from funds appropriated to the State Soil Conservation Committee.

House Bill No. 1115 raises the assessment on wheat from five mills to eight mills per bushel.

House Bill No. 1185 changes the terms of office for members of the North Dakota Barley Council from three to four years and raises the assessment on barley from five mills to 10 mills per bushel.

House Bill No. 1199 adds a crambe grower to the North Dakota Oilseed Council and raises the assessment on oilseeds from two cents to three cents per hundredweight.

House Bill No. 1305 directs the North Dakota Agricultural Experiment Station to study the feasibility and desirability of industrial hemp production and to provide a report to the Legislative Council before August 1, 1998.

House Bill No. 1328 repeals the provision requiring the North Dakota Soybean Council to provide refunds of assessments levied on soybeans.

House Bill No. 1339 changes statutory references from edible beans to dry beans and raises the assessment on dry beans from five cents to 10 cents per hundredweight.

House Bill No. 1362 establishes the North Dakota Agricultural Hall of Fame.

House Bill No. 1433 authorizes the Commissioner of Agriculture, on behalf of the Pesticide Control Board, to accept funds received for expenses paid by the Pesticide Control Board which relate to the registration of pesticides. The bill creates the minor use pesticide fund.

House Bill No. 1434 authorizes the State Seed Commissioner to establish and charge fees for laboratory tests and services which had previously been performed free of charge. It also authorizes the use of affidavits regarding seed analysis in place of labels or tags.

House Bill No. 1436 provides that a person may not plant seed potatoes in lots of one acre or more, for the purpose of selling the crop, unless the seed potatoes have been certified, except in the case of growers who are within one year of having their own certified parent seed potatoes.

House Bill No. 1437 provides that all seed potatoes imported into the state for planting purposes or exported from the state must be accompanied by an office grade certificate or a health certificate. The bill also raises the civil penalty for violating North Dakota Century Code Chapter 4-10, relating to potatoes, from $1,000 to $5,000.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 5
Alcoholic Beverages
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 5. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

House Bill No. 1114 requires a retail alcoholic beverage licensee who sells beer in a container greater than six gallons (keg) to place the licensee's state retail alcoholic beverage license number on the keg.

House Bill No. 1371 authorizes local governments to regulate the open door policies of fraternal organizations or private clubs under authority to regulate retail alcoholic beverage licensees.

Senate Bill No. 2106 authorizes the Attorney General to require retail alcoholic beverage licensees to pay for and provide written consent for a background check.

Prepared by the North Dakota Legislative Council staff
April 1997

TITLE 6
Banks and Banking
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 6. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

The legislation relating to banks and banking may be classified in seven subject areas.

AGRICULTURAL MEDIATION SERVICE

Senate Bill No. 2182 extends the Agricultural Mediation Service until June 30, 1999, and extends confidentiality to formal or informal agricultural mediation. This bill also repeals the sections that require the Credit Review Board and the Commissioner of Agriculture to provide eligible farmers and small business persons with legal and tax assistance.

BANK OF NORTH DAKOTA

House Bill No. 1066 requires the State Auditor to contract with an accounting firm to audit the Bank of North Dakota and specifies requirements of an audit of the separate programs and funds administered by the Bank of North Dakota.

House Bill No. 1155 updates references to federal legislation in statutes relating to the Bank of North Dakota and community water facility loans.

Senate Bill No. 2069 allows the Bank of North Dakota to make guaranteed student loans that provide interest remaining unpaid at the end of any period specified in the loan may be added to the principal amount of the debt and may thereafter accumulate interest.

Senate Bill No. 2287 allows limitation of the Bank of North Dakota's ability to access the Department of Banking and Financial Institutions' records.

CHECKS

House Bill No. 1223 increases the monetary liability in civil actions for issuance of a check or draft without sufficient funds or credit and allows a holder's agent or representative to the same remedies as the holder. The bill also provides the procedure for returning paid nonsufficient fund checks to the issuer.

House Bill No. 1238 changes the financial liability and criminal penalties for issuance of a check without an account or with insufficient funds.

CREDIT REVIEW BOARD

Senate Bill No. 2020 requires the Credit Review Board to participate in a farm management delivery system coordinated by the State Board for Vocational and Technical Education among the adult farm management program, Agricultural Mediation Service, and the North Dakota State University.

FINANCIAL INSTITUTIONS AND FACILITIES

House Bill No. 1060 allows the Governor to select the members of the State Credit Union Board without choosing from a panel provided by the North Dakota Credit Union League. The bill also changes some of the powers and duties of the Commissioner of Banking and Financial Institutions, the State Banking Board, and the State Credit Union Board. The bill also repeals the section that limits the interest rate on loans made by a credit union.

House Bill No. 1098 provides for a procedure whereby interested persons may submit information relating to a proposed application for a credit union to expand its field of membership.

Senate Bill No. 2129 requires the Commissioner of Banking and Financial Institutions to examine credit unions every 24 months and allows the commissioner to reject a supervisory committee examination or audit of a credit union. The bill also requires written notification of the amount, terms, and source of borrowing to be provided to the Commissioner of Banking and Financial Institutions.

Senate Bill No. 2169 provides a credit union volunteer immunity from civil liability for acts performed in the scope of the credit union volunteer's official duties.

Senate Bill No. 2118 increases the grounds upon which an employee of a financial institution may be suspended and excludes supervisory reports of examination from the records the Banking Board and Credit Union Board must make available to stockholders, shareholders, depositors, creditors, and sureties on any bonds of any such institution or on the bonds of any officer or employee of the institution. The bill also allows financial associations perpetual existence unless sooner dissolved or forfeited by a violation of law.

House Bill No. 1336 increases to $20,000 the amount a director of a credit union or a member of any committee of a credit union may borrow from the credit union.

Senate Bill No. 2117 allows a federal savings association or state savings and loan association located in this state to convert into a state bank.

Senate Bill No. 2261 allows an out-of-state bank holding company to acquire a North Dakota national bank, changes the notice requirement for filing to acquire a North Dakota bank, and allows an out-of-state holding company that owns a depository institution with the main office located in North Dakota as of January 1, 1997, to reorganize the North Dakota operations. The bill also provides to the extent a state imposes a restriction on the ability of a North Dakota bank holding company to acquire a bank in that state and the restriction is based on the length of time either bank has existed, that restriction must apply to any acquisition of a North Dakota bank by a bank holding company located in that state.

House Bill No. 1463 allows the exchange of customer information between affiliated financial institutions.

House Bill No. 1390 limits appraisal or formal valuation requirements for real estate loans to those in excess of $100,000.

Senate Bill No. 2146 allows banks to pledge securities for the repayment of deposits by federally recognized Indian tribes.

Senate Bill No. 2288 allows corporations that are organized as associations of state and national banks located within North Dakota to be shareholders of bank service corporations.

MUNICIPAL BOND BANK

Senate Bill No. 2086 provides some protection for a service provided or made available by a political subdivision through a loan from the Municipal Bond Bank or any other state agency or enterprise.

Senate Bill No. 2087 requires any contractual right to the receipt of moneys by the Municipal Bond Bank for the purpose of the fund must be deposited in the required debt service reserve of the Municipal Bond Bank.

TRUST COMPANIES

Senate Bill No. 2134 removes the requirement under Section 6-05-04 that the State Auditor approve all pledges or deposits for surety deposit investments made by a corporation organized under Chapter 6-05 or a foreign corporation. The bill also requires a trust company officer to take an oath before entering upon the duties of the office.

Prepared by the North Dakota Legislative Council staff
April 1997

TITLE 7
Building and Loan Associations
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 7. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

Senate Bill No. 2117 allows a federal savings association or state savings and loan association located in this state to convert into a state-chartered commercial bank, and replaces references to the "federal savings and loan insurance corporation" with "agency or instrumentality of the United States of America." The bill also provides any authority that is subject to discretionary approval by the federal regulatory agency is subject to discretionary approval by the State Banking Board.

Prepared by the North Dakota Legislative Council staff
April 1997

TITLE 8
Carriage
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 8. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

House Bill No. 1189 governs the commandeering of telecommunications transmissions in emergency situations by law enforcement officers and provides that this may be done if there is probable cause to believe an individual could suffer injury or death as a result of the incident.

Prepared by the North Dakota Legislative Council staff
April 1997

TITLE 9
Contracts and Obligations
Summary of Bills Enacted by 1997 Legislative Assembly

There was no legislation enacted that primarily affected North Dakota Century Code Title 9. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 10
Corporations
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 10. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

The legislation relating to corporations may be classified in seven subject areas.

BUSINESS CORPORATIONS AND LIMITED LIABILITY COMPANIES

Senate Bill No. 2344 extensively amends, creates, and repeals portions of the North Dakota Business Corporation Act, Limited Liability Company Act, limited liability partnerships law, income tax law, Uniform Division of Income Tax Act, corporations or limited liability company farming law, Professional Organizations Act, Uniform Limited Partnership Act, and partnership and limited partnership law.

COMMUNITY DEVELOPMENT CORPORATIONS

Senate Bill No. 2373 provides a framework for investment in community development corporations by banks.

COOPERATIVES

House Bill No. 1320 provides name and reserved name requirements for cooperative associations and establishes a $10 filing fee for a name reservation, transfer of name reservation, a cancellation of name reservation, or a consent to use of name. The bill also changes the cooperative and foreign cooperative annual report requirements by increasing the late filing fee to $35, specifies how a determination of late filing is made, and provides the effective date of a cooperative is when the certificate of association is issued by the Secretary of State or on a later date as specified in the articles of association.

NONPROFIT ORGANIZATIONS

Senate Bill No. 2210 repeals the Nonprofit Corporations Act and replaces the Act with new law governing nonprofit corporations.

Senate Bill No. 2385 provides a nonprofit organization may acquire no more than 16,000 acres of land in this state.

REAL ESTATE INVESTMENT TRUSTS

House Bill No. 1392 authorizes and provides a framework for real estate investment trusts.

SECURITIES

House Bill No. 1412 creates a "test the water" exemption to the registration of securities requirements and allows civil penalties collected from enforcement actions to be deposited in a special securities protection fund for the purpose of distribution to aggrieved investors.

Senate Bill No. 2099 corrects cross-references resulting from changes in the Uniform Act for the Simplification of Fiduciary Security Transfers.

TECHNOLOGY TRANSFER, INCORPORATED

Senate Bill No. 2019 repeals the chapter on Technology Transfer, Incorporated as of July 1, 1999.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 11
Counties
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 11. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

The legislation relating to counties may be classified in these subject areas: county elections and county officers.

COUNTY ELECTIONS

House Bill No. 1299 provides that a majority of the qualified electors voting on the question is necessary for approval of a question relating to the amendment or repeal of a county home rule charter, consideration of a resolution incorporating a proposed plan for combining or separating county offices or redesignating a county office as elective or appointive, or consideration of a proposed plan for combining county elective offices.

House Bill No. 1389 prohibits a charter or ordinance or act of the governing body of a home rule county from superseding the provisions of Section 11-11-55.1 relating to the 60 percent petition requirement for improvements and of Section 40-22-18 relating to the barring proceeding for improvement projects.

COUNTY OFFICERS

House Bill No. 1226 requires the clerk of district court to notify the state registrar of vital statistics of an entry of a decree of paternity within 15 days of the filing of the decree.

House Bill No. 1247 allows the members of a board of recreation service district commissioners to be compensated in an amount of no more than $25 per meeting of the board, as determined by the board. Previously, members were entitled to no compensation.

House Bill No. 1255 requires an appointed member of a county board, commission, or committee that has authority to levy taxes to be a resident of the area subject to taxation by the board, commission, or committee.

House Bill No. 1420 increases the fee for the filing of certain documents with the office of clerk of court from $5 to $10 and increases from $5 to $10 the amount a clerk of court may charge for preparing, certifying, issuing, or transmitting a document.

Senate Bill No. 2002 provides that each county must have a register of deeds and the register of deeds shall perform the functions of the clerk of district court in counties having a population of 6,000 or less, unless the board of county commissioners adopts a resolution separating the offices. The bill provides that in a county having a population of more than 6,000, the offices of clerk of district court and register of deeds may be combined into an office of register of deeds if the board of county commissioners adopts

a resolution combining the offices. The bill also changes the distribution of fees for filing civil cases that are not small claims court actions. The bill increases from $10 to $15 the amount of each $80 fee which must be deposited in the civil legal services fund. The bill provides that any fees collected for deposit in the civil legal services fund which exceed $400,000 in any biennium must be paid to the State Treasurer for deposit in the state general fund. The bill also reduces the amount of the $80 filing fee that must be paid to the State Treasurer for deposit in the state general fund from $50 to $45 for all civil cases except petitions for the dissolution of marriage, annulment, or separation from bed and board. Effective April 1, 1999, the bill provides that $65 of the $80 fee for petitions other than dissolution of marriage, annulment, or separation from bed and board must be paid to the State Treasurer for deposit in the state general fund. Also, effective April 1, 1999, for the filing of petitions for dissolution of marriage, annulment, or separation from bed and board, $15 of the $80 fee must be paid to the State Treasurer for deposit in the state general fund.

Senate Bill No. 2370 provides that the regular term of office of each county commissioner, when the commissioner is elected for a full term, commences on the first Monday in December following the officer's election. The bill provides that a commissioner elected to fill an unexpired commission term may commence the discharge of duties of the office at any time after receiving a certificate of election to that office, but not later than the first Monday in December following the date of the commissioner's election to the unexpired term of office.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 12
Corrections, Parole, and Probation
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 12. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

The legislation relating to corrections, parole, and probation may be classified in these areas: parole and pardons; criminal investigation records; and correctional facilities.

PAROLE AND PARDONS

Senate Bill No. 2045 authorizes the Governor to create a pardon advisory board to provide information and make recommendations to the Governor concerning pardons, reprieves, and commutations. The bill also repeals North Dakota Century Code Chapter 12-55 and creates a new chapter that relates to the authority of the Governor to grant pardons, reprieves, and commutations.

Senate Bill No. 2128 eliminates the requirement that meetings of the Parole Board be held at the State Penitentiary. The bill authorizes the board to permit the inspection of a person's preparole reports, authorizes the board to grant an application for parole if the board is convinced the applicant will conform to the terms and conditions of parole the board or the Division of Parole and Probation may establish for the applicant, and establishes a procedure for emergency paroles.

CRIMINAL INVESTIGATION RECORDS

Senate Bill No. 2085 includes criminal trespass, hunting on posted land, domestic violence offenses, prohibited drug purchases, and offenses relating to pyramid promotional schemes as offenses that must be reported to the Bureau of Criminal Investigation.

Senate Bill No. 2153 provides that subject to certain requirements, information regarding a conviction for the continuous sexual abuse of a child may be disseminated.

Senate Bill No. 2160 includes operating a snowmobile while under the influence of intoxicating liquor or a controlled substance as an offense that must be reported to the Bureau of Criminal Investigation.

CORRECTIONAL FACILITIES

Senate Bill No. 2108 authorizes the director of the Department of Corrections and Rehabilitation to establish affiliated correctional facilities at other locations throughout the state; authorizes the warden of the penitentiary to transfer offenders to other correctional facilities as may be necessary for purposes of safety, security, discipline, medical care, or when the warden determines the transfer may be necessary for the best interests of the public, the offender, or the penitentiary; and provides for the confidentiality of records of persons in the custody of the department and for the handling of inmates' funds.

Senate Bill No. 2127 amends Chapter 12-44.1 to provide for consistent use of the terms jail and correctional facility. The bill authorizes a city or county to contract with another correctional facility in the state for correctional services. A city or county may also contract for the confinement of inmates lawfully sentenced by a tribal court. The bill also establishes penalties for the delivery or administration of any alcoholic beverage or controlled substance to a person detained in a correctional facility.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 12.1
Criminal Code
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 12.1. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

The legislation relating to the criminal code may be classified in these areas: sentencing; sexual offenses; new offenses; victims and witnesses; and miscellaneous.

SENTENCING

House Bill No. 1044 requires individuals convicted of a relevant offense in municipal court to register as if convicted in district court.

House Bill No. 1089 defines the term "sentence imposed" to mean the remaining life expectancy of the offender on the date of sentencing.

House Bill No. 1195 increases from $1,000 to $2,000 the maximum fine for a Class A misdemeanor. The bill also increases from $500 to $1,000 the maximum fine for a Class B misdemeanor.

Senate Bill No. 2220 authorizes a court, when imposing probation upon conviction for a felony, to place a defendant under the supervision and management of a community corrections program other than the Department of Corrections and Rehabilitation.

SEXUAL OFFENSES

House Bill No. 1046 requires a risk assessment in presentence investigations of individuals charged with gross sexual imposition.

House Bill No. 1048 requires the district court to make a determination as to whether an individual is a sexually violent predator. The bill also requires the court to determine when the individual is no longer a sexually violent predator.

Senate Bill No. 2153 creates a Class A felony for the continuous sexual abuse of a child. The bill defines "continuous sexual abuse of a child" as any combination of three or more sexual acts or sexual contacts with a minor under the age of 15 years during a period of three or more months.

Senate Bill No. 2168 requires that the court grant immunity from prosecution to a person who provides information in a divorce action regarding sexual acts with another person.

Senate Bill No. 2285 provides that a person who engages in a sexual act with another is guilty of gross sexual imposition if that person or someone with that person's knowledge has substantially impaired the victim's power to appraise or control the victim's conduct

by administering without the victim's knowledge a controlled substance as defined in Chapter 19-03.1.

Senate Bill No. 2364 changes the penalties from a Class A misdemeanor to a Class C felony for an adult engaging in a sexual act with a minor if the adult is at least 22 years old and the minor is 15 years of age or older. The bill also prohibits the deferred imposition of sentence in cases where the defendant cannot prove by clear and convincing evidence that the defendant reasonably believed the victim was 15 years of age or older.

NEW OFFENSES

House Bill No. 1079 makes it a Class C felony to willfully take or remove, or attempt to take or remove, a firearm from a law enforcement officer engaged in the performance of official duties.

House Bill No. 1112 provides that a person is guilty of a felony if the person exploits a disabled adult or vulnerable elderly adult. Depending upon the amount of funds exploited, the penalty is a Class A, Class B, or a Class C felony.

House Bill No. 1178 provides that it is a Class C felony to assault a member of a municipal or volunteer fire department or emergency medical services personnel in the performance of their duties.

House Bill No. 1180 provides that the possession of drug paraphernalia used for the manufacture of a controlled substance is a Class C felony.

House Bill No. 1350 makes the offense of criminal mischief a Class C felony if the actor intentionally causes pecuniary loss greater than $2,000, but less than $10,000, or damages tangible property of another by means of an explosive or a destructive device.

House Bill No. 1357 makes it a Class A misdemeanor to surreptitiously intrude on another by looking through a window of a person's home or the person's hotel room, or by looking at a person using a tanning booth or by surreptitiously installing a device for photographing or recording a person while in a hotel or a tanning booth.

House Bill No. 1373 makes it a Class B felony for any person, other than the driver of a motor vehicle, to willfully fail or refuse to stop or otherwise flee or attempt to elude a pursuing peace officer when a visual or audible signal to stop has been given.

House Bill No. 1387 makes it an infraction for a person to willfully own, rent, lease, manage, or exercise control of any portion of an adult entertainment center if that portion contains any partition between subdivisions of a room or area that has an opening that facilitates a sexual act between individuals on either side of the partition. The bill further requires that any room or portion of a room used for an adult entertainment center must have at least one side open to an adjacent public space and adequate lighting.

Senate Bill No. 2369 amends the definition of criminal association to include a person who willfully and illegally transports or disposes of radioactive waste material or hazardous waste. The bill also provides that criminal association is a Class B felony.

VICTIMS AND WITNESSES

House Bill No. 1049 requires the prosecuting attorney, court personnel, and law enforcement personnel to protect a victim or witness from psychological damage or lengthy interrogation, testimony, or discovery proceedings.

Senate Bill No. 2209 provides the name of a child victim witness of a crime and identifying biographical information may not appear on any public record except if the information is in regard to a criminal offense under Title 39 or equivalent ordinance or a child victim of a fire.

MISCELLANEOUS

House Bill No. 1109 relates to the procedures for reimbursement of indigent defense costs and expenses. The bill provides for a presumption that the reimbursable costs and expenses are reasonable and increases from $50 to $75 the hourly rate for appointed counsel plus reasonable expenses.

Senate Bill No. 2221 prohibits a perpetrator of certain violent crimes from recovering for injuries sustained during the criminal conduct. The bill further provides that the perpetrator's assumption of risk does not eliminate the victim's duty to protect against conditions upon the premises which may create an unreasonable risk of harm or which may create an attractive nuisance.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 13
Debtor and Creditor Relationship
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 13. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

House Bill No. 1156 extends the provisions of the Consumer Finance Act to include loans made for under $1,000 and for not more than $35,000 and provides the charges that are allowed to accompany these loans. The bill also includes and exempts some persons from the provisions of the Consumer Finance Act and distinguishes between the penalties available for loans of $1,000 or less and loans of over $1,000.

Senate Bill No. 2135 provides the Commissioner of Banking and Financial Institutions with a procedure for suspending or removing a collection agency officer or employee.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 14
Domestic Relations and Persons
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 14. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

The legislation relating to domestic relations and persons may be classified in these subject areas: marriage and divorce; child support; parent and child; domestic violence; discrimination; and miscellaneous.

MARRIAGE AND DIVORCE

House Bill No. 1420 provides for a $30 fee to be collected by the clerk of court and retained by the county for marriage ceremonies performed by the clerk during regular courthouse hours. The bill further provides that if a marriage ceremony is performed by the clerk at a time other than during regular courthouse hours, the clerk may collect and retain a fee in an amount to be determined by the clerk.

Senate Bill No. 2230 defines a marriage as a civil contract between one man and one woman and defines a spouse as a person of the opposite sex who is a husband or a wife. The bill provides that all marriages contracted outside the state which are valid under the laws of the state or country where contracted are valid in this state if the marriage contracted is between one man and one woman as husband and wife.

Senate Bill No. 2359 provides that in addition to judges of courts of record and clerks of court, a marriage may be solemnized by a municipal judge. The bill also allows for the solemnization of a marriage by ordained ministers of the gospel, priests and clergy licensed by recognized denominations, and by any person authorized by the rituals and practices of any religious persuasion.

CHILD SUPPORT

House Bill No. 1093 amends the Uniform Interstate Family Support Act by providing guidance on which child support order is controlling when two or more are issues for the same obligor and child, and guidance for employer's compliance with income-withholding orders from other states.

House Bill No. 1226 provides for the implementation of federal welfare reforms regarding child support enforcement. The bill requires all Title IV-D collections and all income-withholding payments be paid through a central unit operated by the Department of Human Services. The bill creates a centralized receipt and disbursement unit for the collection and distribution of the majority of child support payments. The bill provides that a court may order an individual who owes past due child support to pay the past due support in accordance with a court-approved plan or to participate in work activities as the court deems appropriate. The bill authorizes a court to withhold or suspend an occupational, professional, recreational, or motor vehicle operator's license of a person who is in arrears in an amount greater than three times the monthly child

support obligation and the person is not current in a court-established plan to repay the arrears.

Senate Bill No. 2280 requires the Department of Human Services to request a child support enforcement agency to enter a child support withholding order within 20 days of the date income withholding is determined appropriate or the date of receipt of information necessary to carry out the withholding.

PARENT AND CHILD

Senate Bill No. 2167 limits postjudgment custody modifications within two years after entry of a custody order unless modification is necessary to serve the best interest of the child and there is persistent and willful denial or interference with visitation, the child is in danger, or there has been a de facto change in custody.

Senate Bill No. 2357 provides that in a child visitation proceeding, the court is required to award the noncustodial parent reasonable attorney's fees and costs if the court determines there has been willful and persistent denial of visitation rights by the custodial parent with respect to the minor child.

Senate Bill No. 2281 repeals the provision of court-appointed counsel in paternity proceedings.

DOMESTIC VIOLENCE

Senate Bill No. 2266 allows law enforcement officers to arrest an individual without a warrant if the person has violated a protection order. The bill also provides that a court, as a condition of a protection order, may require a respondent to surrender for safekeeping any firearm or other dangerous weapon in that person's possession or control if the court reasonably believes the person is likely to use the firearm or dangerous weapon in any further acts of violence.

Senate Bill No. 2235 modifies the presumption regarding domestic violence in custody and visitation cases by allowing for evidence of an incident of domestic violence that resulted in bodily injury or involved the use of a dangerous weapon or by allowing for evidence of a pattern of domestic violence within a reasonable proximate time to the proceeding. The bill became effective on April 3, 1997.

DISCRIMINATION

House Bill No. 1100 provides that the Labor Commissioner may investigate complaints of discriminating employment practices to determine if there is probable cause to believe the complaint is meritorious. The bill further provides that the complaint and information obtained during the investigation is confidential and is exempt from the state's open records law.

Senate Bill No. 2181 prohibits a governmental entity from discriminating against any health care institution or any private agency in any grant, contract, or program because of the institution's or agency's refusal to perform or participate in any health care service that violates the institution's or agency's written religious or moral policies.

MISCELLANEOUS

House Bill No. 1478 provides that information published by the Department of Health regarding the probable anatomical and physiological characteristics of a fetus at two-week increments must contain the dimensions of the fetus and must be realistic and appropriate for the stage of pregnancy depicted.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 15
Education
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 15. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

Senate Bill No. 2013 appropriates $7,463,790 from special funds for defraying the expenses of the Commissioner of University and School Lands. The bill also prohibits the Board of University and School Lands from using any funds entrusted to it to purchase, as sole owner, any commercial or residential real property without prior approval of the Legislative Assembly or the Budget Section of the Legislative Council.

Senate Bill No. 2016 provides a total general fund appropriation of $45,229,992 to defray the expenses of the Department of Corrections and Rehabilitation. The bill also provides for a contingent distribution of up to $350,000 for educational costs incurred by the Youth Correctional Center during the 1997-99 biennium.

Senate Bill No. 2020 appropriates $11,516,023 for defraying the expenses of the State Board for Vocational and Technical Education. The bill also includes language requiring the board to coordinate a delivery system for adult farm management programs.

Senate Bill No. 2029 provides for additional per student payments for school districts educating students who have negligible or very limited English language skills.

Senate Bill No. 2031 provides that a school district that previously contracted for transportation services may determine its actual costs for the first year it provides its own transportation services by using the statewide average cost of transportation during that first year.

Senate Bill No. 2032 requires the State Fire Marshal to inspect each public and private elementary and secondary school in this state at least once every three years.

Senate Bill No. 2033 provides that students in grades 11 and 12 may receive high school and postsecondary credit for the successful completion of an academic course offered by a postsecondary institution.

Senate Bill No. 2069 provides that the interest rate on student loans without federal coinsurance may not be more than two percentage points above the base participation rate established by the Bank of North Dakota and in effect on the date the loan was made.

Senate Bill No. 2095 provides that complaints made against teachers and administrators to the Education Standards and Practices Board must be signed and may include supporting documentation. If an answer is filed by a teacher or administrator,

the bill allows the Education Standards and Practices board to hold a meeting, rather than a hearing, to review and discuss the documentation submitted by the respective parties.

Senate Bill No. 2139 raises the contribution of Teachers' Fund for Retirement members from 6.75 percent per annum to 7.75 percent per annum. The bill also raises the amount of retirement benefits from 1.55 percent of the member's final average monthly salary multiplied by the number of years of credited service to 1.75 percent.

Senate Bill No. 2173 provides for a school term of 173 days, three holidays, two days for the attendance of teachers at the North Dakota Education Association instructional conference, and up to two full days during which parent-teacher conferences are held. The bill also defines a full day of instruction as being five and one-half hours for elementary students and six hours for high school students.

Senate Bill No. 2312 provides that for purposes relating to the award of scholarships to postsecondary students, a student's high school rank is to be determined by the State Board of Higher Education and requires that scholarships be awarded in January, rather than April, of each year for the following academic year.

Senate Bill No. 2336 provides that for purposes of rulemaking the Superintendent of Public Instruction is an administrative agency under North Dakota Century Code Chapter 28-32. Any rule adopted by the Superintendent of Public Instruction in a manner other than by Chapter 28-32 is ineffective after October 31, 1999.

Senate Bill No. 2338 sets the per student payments at $1,954 and $2,032 for the 1997-99 biennium and provides for a 32-mill equalization factor and weighting factors of 65 and 75 percent.

House Bill No. 1013 provides a general fund appropriation of $534,584,828 for defraying the expenses of the Superintendent of Public Instruction, the School for the Deaf, the School for the Blind, and the State Library. The bill also provides funds for payments to school districts educating students with limited English proficiency and allows for the home schooling of developmentally disabled children with autism through June 30, 1999.

House Bill No. 1034 directs the Educational Telecommunications Council to promote the use of technology for educational purposes and the development of technology systems to improve educational opportunity.

House Bill No. 1055 allows school boards to offer teachers up to two days as compensatory time for parent-teacher conferences held outside normal school hours.

House Bill No. 1127 provides that if a school district enters an agreement with a county to hold the school district election in conjunction with the primary election, the deadline for giving notice of the school district election along with the matter to be voted upon may be adjusted to meet the publishing requirements of the county.

House Bill No. 1130 requires the Superintendent of Public Instruction to review requests for chemical abuse and prevention program grant funds when moneys have been appropriated or otherwise made available to the program.

House Bill No. 1131 replaces the mandate that students attending school in a bordering state, county, or district because of proximity or terrain be permitted to attend or continue attending that school with specific requirements regarding distance and years of attendance. The bill also authorizes a school district to negotiate with the district of a bordering state for the education of students and the amount of tuition that will be paid.

House Bill No. 1142 reconfigures the Teachers' Fund for Retirement Board to include two members who are actively employed in full-time positions not classified as school administrators, one member who is a full-time administrator, and two persons who are retired teachers and members of the fund. The new members serve five-year terms, and the board is to establish investment policy for the trust fund, arrange for actuarial and medical consultants, and determine appropriate levels of service to be provided to fund members, including benefits counseling and preretirement programs.

House Bill No. 1143 redefines "teacher" to include all persons who are certified to teach in the state by the Education Standards and Practices Board and who are contractually employed in teaching, supervisory, administrative, or extracurricular services, as well as the professional staff of the State Board for Vocational and Technical Education and the professional staff of the Division of Independent Study. The bill also provides that a retired teacher who is receiving a retirement annuity may not return to covered employment until 60 calendar days have elapsed from the teacher's retirement date. A retired teacher may then return to covered employment for a maximum of 90 working days and continue receiving a monthly retirement benefit. If a retired teacher's employment exceeds the 90-day maximum limit, the retired teacher must notify the fund office in writing. Failure to do so will result in the loss of one month's annuity benefit.

House Bill No. 1144 raises the amount of retirement benefits available to members of the Teachers' Fund for Retirement who begin receiving benefits after June 30, 1997, from 1.55 percent to 1.61 percent of the member's final average monthly salary multiplied by the number of years of credited service and provides that an individual who on June 30, 1997, is receiving monthly benefits from the fund is entitled to receive an increase of $30 per month.

House Bill No. 1146 provides that newly cooperating and reorganized school districts are entitled to receive the same per student payments for each high school and elementary student as the school districts received before the respective cooperation or reorganization. The bill also provides that school districts cooperating with each other for the joint provision of education services are considered to be a single school district for purposes of grade level determination under open enrollment provisions.

House Bill No. 1147 would have provided that law enforcement officers notify a juvenile's principal and school administrator when a juvenile commits an offense against a person which would constitute a felony if committed by an adult, an offense involving drugs or controlled substances, or an offense involving the use or possession of a dangerous weapon. The bill was vetoed by the Governor and the veto was sustained.

House Bill No. 1154 provides that if a reorganization proposal contemplates the issuance of bonds, the question of the issuance may be voted on at the same election as that for which approval of the reorganization is sought. The bill also authorizes the school board of a new school district established under Chapter 15-27.3 to proceed with the issuance of bonds before the effective date of the reorganization, if this is contemplated by the approved reorganization proposal.

House Bill No. 1155 updates federal legislation referenced in statutes relating to student loans and the student loan trust fund.

House Bill No. 1169 provides that American sign language may be offered as an elective at the high school level.

House Bill No. 1179 provides that when the Budget Section approves the State Board of Higher Education's construction of buildings and campus improvements financed by donations, gifts, grants, and bequests, the Budget Section must include a specific dollar limitation for each building or improvement project.

House Bill No. 1216 requires the Education Standards and Practices Board to conduct background checks of each applicant for a teaching certificate.

House Bill No. 1234 concerns election recounts and provides that the school district business manager perform election duties of the county auditor when the school election is not combined with the county.

House Bill No. 1246 provides that upon the written request of a school district, the Superintendent of Public Instruction may forward all or a portion of the special education per student payments for which the school district is eligible directly to the special education unit of which the school district is a member.

House Bill No. 1299 clarifies the number of votes required for the approval of ballot issues by referring to qualified electors "voting on the question."

House Bill No. 1312 provides that each member of the State Board of Higher Education, other than the student member, be paid compensation in the same amount provided for members of the Legislative Council. The bill also authorizes institutions under the State Board of Higher Education to borrow from the Bank of North Dakota up to 90 percent of the value of an institution's certificates of deposit at the Bank of North Dakota.

House Bill No. 1315 changes the requirement that the State Board for Indian Scholarships provide scholarships each year for resident persons of at least one-fourth degree of Indian blood or for enrolled members of tribes now resident in North Dakota to members of federally recognized Indian tribes.

House Bill No. 1337 authorizes a person who holds a graduate degree in counseling, with coursework and an internship in school counseling, to provide guidance and counseling services at the elementary and secondary school level, provided the person has or will obtain a teaching certificate within seven years from the date of first employment.

House Bill No. 1366 provides that if a county committee approves an annexation after receiving no opposition at the hearing, the state board may review the record and give final approval to the annexation without holding a hearing.

House Bill No. 1368 changes references from home-based instruction to home education and provides that a parent may, for purposes of required testing, utilize standardized achievement tests other than those used by a school district of residence at the parent's expense. It also provides for a plan of remediation if a child's basic composite score falls below the 30th percentile nationally.

House Bill No. 1393 provides supplemental per student payments to districts whose taxable valuation per student and average cost of education are below the statewide average.

House Bill No. 1402 includes business education as a subject that may be taught to elementary students by a teacher who holds a teaching certificate and meets the requirements of the Superintendent of Public Instruction.

House Bill No. 1456 provides that a high school diploma may be issued to a student by the student's school district of residence, a state-approved nonpublic high school, or the North Dakota Division of Independent Study if the student has met either the issuing entity's requirements for high school graduation or has completed at least 17 units of high school coursework from the minimum required curriculum offerings established for public and private schools in Section 15-41-24.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 16.1
Elections
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 16.1. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

The legislation relating to elections may be classified in these subject areas: initiative and referendum petitions; political party organization; election officers; absentee voting; campaign contributions; ballots; and recounts.

INITIATIVE AND REFERENDUM PETITIONS

House Bill No. 1065 provides for the exclusion of Saturdays as business days as it applies to the review period for referendum or initiative petitions.

Senate Bill No. 2044 provides that initiative and referendum petitions may be submitted to the Secretary of State until midnight on the day designated as the deadline for submission.

Senate Bill No. 2094 removes the requirement that constitutional amendments and initiated and referred measures be printed on a separate ballot and be deposited in a box separate from that provided to receive the ballots for public officers. The bill requires that for two consecutive weeks before the sample ballot is published, an analysis of any constitutional amendment or initiated or referred measure must be published.

POLITICAL PARTY ORGANIZATION

Senate Bill No. 2368 requires a political party caucus chairman to notify the county auditor of the precinct committeemen elected. The bill provides that the precinct committeemen of a party and any other persons provided for by the district committee's bylaws and designated by the district committee constitute the district committee of the party. The bill provides that the district committee of a party must be organized to coincide with the geographical boundary lines of state legislative districts. The bill allows the chairman of the state committee of a political party to temporarily fill a vacancy existing on the state committee until the state committee convenes to fill the vacancy. The bill removes the requirement that unless the state party provides otherwise, one delegate to the state convention must be elected for each 300 votes cast in the district at the last presidential election for candidates for presidential electors of the party. The bill also provides that a political organization may not endorse candidates or have candidates petition for President, Vice President, Congress, statewide office, or legislative office unless the organization had a set of presidential electors printed on the last preceding presidential election ballot and received at least five percent of the total vote cast for presidential electors or the office of Governor at that election, organized according to the requirements of Chapter 16.1-03, or filed a petition with the Secretary of State containing the signatures of at least 7,000 qualified electors.

ELECTION OFFICERS

Senate Bill No. 2190 allows the county auditor of a county to select election judges and clerks who reside outside the voting precinct but who reside within the precinct's legislative district if the auditor has exhausted all practicable means to select judges and clerks from the voting precinct. The bill also allows the county auditor to select election judges and clerks who reside outside the legislative district but who reside within the county if vacancies still remain in those positions.

ABSENTEE VOTING

Senate Bill No. 2151 removes the requirement that an applicant for an absentee ballot state a reason for voting absentee and removes the requirement that the applicant be absent from the voting precinct on the day of the election to be eligible to vote by absentee ballot.

Senate Bill No. 2302 allows a county auditor or clerk of a city to issue an absentee ballot on the day of election to a person prevented from voting in person on the day of the election due to an emergency. The bill requires a person to request an absentee ballot on the day of election due to an emergency through an agent and provides that the absentee ballot must be returned to the county auditor's office by 4:00 p.m. on the day of the election.

CAMPAIGN CONTRIBUTIONS

House Bill No. 1403 amends definitions of "political purpose" to create a uniform definition that provides that the term means any activity undertaken in support of or in opposition to the election or nomination of a candidate to public office whether the activity is undertaken by a candidate, political committee, political party, or any other person, but does not include activities undertaken in the performance of a duty of state office. The bill requires a candidate, political committee, or person who is soliciting or accepting contributions for aiding or opposing initiated or referred measures to include in campaign contribution statements the amount of each reportable contribution and the date each reportable contribution was received. The bill provides that a candidate that has not received any contributions in excess of $100 during the calendar year is required to file a campaign contribution statement. The bill requires a person soliciting or accepting contributions for the purpose of aiding or defeating initiated or referred measures to indicate, on the contribution statement that relates to contributions from out-of-state persons, if no individual contributed in excess of $100 of the out-of-state person's or political committee's overall contribution. The bill removes the requirement that contribution statements be verified by oath or affirmation of the person filing the statement.

Senate Bill No. 2225 prohibits a candidate from accepting a contribution in an amount exceeding $200 from another candidate's campaign contributions, from contributions made to a person who was a candidate within the previous six years, or from a federal campaign committee account unless the person who makes a contribution from those funds includes with the contribution a statement that the original contributors gave permission to contribute money to another candidate and the receiving candidate files a disclosure statement within 48 hours after receiving the contribution.

Senate Bill No. 2184 provides that, with respect to the requirement that a person soliciting or accepting a contribution to aid or defeat an initiated or referred measure file a statement identifying an out-of-state political committee that made a contribution in excess of $100, if no person contributed in excess of $100 from the out-of-state person's or political committee's overall contribution, the statement must indicate that fact. The bill also provides that the statement must list the occupation, employer, and principal place of business for each person who contributed more than $100 of the contribution. Previously, the statement only had to include the occupation, employer, and principal place of business for each person who contributed more than $200 of a contribution.

BALLOTS

House Bill No. 1159 prohibits an election or canvassing board from counting write-in ballots for any person who is required to file a certificate of write-in candidacy but who has not filed the certificate, any fictitious person, nonperson, or person not eligible to qualify for the office, or for a statement concerning the candidates. The bill limits the requirement of filing a certificate of candidacy by write-in candidates to candidates for President of the United States and candidates for legislative district office. The bill also provides that a certificate of write-in candidacy is not required when no names will appear on the ballot for an office, the number of candidates appearing on the ballot for an office is less than the number to be elected, or the number of candidates appearing on the ballot for a party office is less than the number of nominations a party is entitled to make. The bill prohibits a person required to file a certificate of write-in candidacy from seeking more than one office appearing on the primary and general election ballots. The bill provides that any signatures on a nominating petition for an independent candidate obtained more than 90 days before the date when the petition must be filed may not be counted. The bill also requires the Secretary of State to certify to each county auditor the names and addresses of persons nominated for statewide office not less than 55 days before any general or special election to fill the office.

Senate Bill No. 2093 removes the requirement that sample ballots with inverted columns be printed twice in each issue of the newspaper in such a manner as to assure that the column of each political party is displayed once in each issue in an upright position. The bill provides that sample ballots used for publication purposes must be arranged using the rotation of the ballot in the precinct in the county which cast the highest total vote for Governor at the last general election at which the office of Governor was filled.

Senate Bill No. 2158 provides that if a vacancy occurs in a slate of legislative candidates after the candidates have been nominated at the primary election, the proper district executive committee may fill the vacancy by filing a certificate of nomination with the county auditor of the new nominee's county of residence. The bill also provides that a vacancy must be deemed to exist when a candidate nominated at the primary election dies or otherwise becomes disqualified to have the candidate's name printed on the ballot at the general election.

Senate Bill No. 2175 changes the time within which an absentee voter's ballot must be received by mail to be canvassed and counted from 48 hours after the closing of the polls on election day to two days after the election. The bill requires presidential and vice presidential candidates to file with the Secretary of State, in a presidential election year,

a statement of interests or a copy of the personal disclosure statement required by the Federal Election Commission. The bill provides that a county canvassing board may meet not earlier than the third day following each election, but not later than the sixth day after the election.

Senate Bill No. 2290 removes the requirement that the primary election ballot title be printed at both ends of the ballot so that there is an upright title no matter which way the ballot is held. The bill also removes the requirement that separate party columns be arranged so that any column is in an inverted position when the adjacent column or columns are in an upright position. The bill requires the Secretary of State to determine, by county, the number and percentage of party ballots that were void because a voter had voted in more than one party column at the 1998 primary election.

RECOUNTS

Senate Bill No. 2250 provides that political subdivision bond issue recounts be governed by the law governing state recounts. The bill provides that a bond issue recount is required when the issue has been decided by a margin not exceeding one-fourth of one percent of the total vote cast for and against the question at any election.

House Bill No. 1234 requires the Secretary of State to set the date or dates of recounts of statewide races to be held within 14 days after giving notice to the auditors that recounts must be conducted. The bill also provides that the county auditor conduct recounts for city elections that are combined with county elections, and that the expenses of the recount must be paid by the city. The bill provides that the recount laws applicable to state and county elections apply to city elections that are not combined with the county to the extent applicable except the city auditor must perform the duties of the county auditor.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 18
Fires
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 18. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

The legislation relating to fires may be classified in four subject areas.

STATE FIRE MARSHAL

Senate Bill No. 2032 increases the duties of the State Fire Marshal and deputy state fire marshals to include enforcement of laws regarding exits from public and private elementary and secondary schools.

FIRE AND FOREST PROTECTION

Senate Bill No. 2130 extends the cooperation and contract powers of the State Forester to include the power to aid rural fire departments and rural fire protection districts with activities to prevent and suppress forest, brush, and grassland fires.

ALTERNATE FIREFIGHTERS RELIEF ASSOCIATION

Senate Bill No. 2144 provides an alternative service pension schedule for members of firefighters relief associations.

FIRE PREVENTION CODE

Senate Bill No. 2379 amends the existing requirements for when a state registered architect or engineer must supervise the design and building process of construction by increasing the minimum monetary worth of buildings required to be supervised under Section 18-12-04 and increases the duties of these architects and engineers to include supervision of construction administration and observation services.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 19
Foods, Drugs, Oils, and Compounds
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 19. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

CONTROLLED SUBSTANCES

Senate Bill No. 2285 reclassifies flunitrazepam, commonly known as "rohypnol," into Schedule I as a depressant. The bill also places remifentanil in Schedule II as an opiate.

House Bill No. 1180 makes it a Class C felony to possess or manufacture certain drug paraphernalia and provides for the Class A felony mandatory sentencing applied to Schedule I and II narcotics to also apply to methamphetamine.

House Bill No. 1359 lowers the years of age from 21 to 18 for which a person is subject to mandatory drug sentencing for the use of a minor for the manufacture or delivery of a controlled substance.

AGRICULTURE AND PETROLEUM PRODUCTS

House Bill No. 1215 provides for anhydrous ammonia safety rules for implements of husbandry, reinstalled and secondhand containers, transportation, hydrostatic tests, and wet fluorescent magnetic particle test procedures.

Senate Bill No. 2131 extends the license for livestock medicine and fertilizer from a one-year to a two-year period that begins July 1 and ends June 30 of the second ensuing year and doubles the fees for the licenses. The bill also provides that each registered pesticide must go through a two-year discontinuance period in order to clear all outstanding product in the channel of trade.

House Bill No. 1059 removes the Poultry Advisory Board from the process used by the Commissioner of Agriculture to establish rules on eggs and egg dealers.

Senate Bill No. 2277 removes the duty of liquefied petroleum wholesale dealers to pay the Tax Commissioner an inspection fee. The bill also requires the Tax Commissioner to make an annual report on inspection fees.

House Bill No. 1085 requires the court to order a defendant in a controlled substance proceeding to pay the costs of an employee of the State Toxicologist or the Forensic Sciences Division, if one is subpoenaed to testify by the defendant but is not called as a witness.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 20.1
Game, Fish, Predators, and Boating
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 20.1. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

The legislation relating to game, fish, predators, and boating may be classified in these subject areas: Game and Fish Department; licenses and permits; and orders and proclamations of the Governor.

GAME AND FISH DEPARTMENT

House Bill No. 1395 establishes a public access program to provide assistance to private landowners to promote public hunting access. The bill provides that the director of the Game and Fish Department may establish programs for landowner assistance that encourage public access to private lands for purposes of hunting. These programs may include cooperative agreements between landowners and the department that allow public hunting with certain restrictions or use rules, a hunting access enhancement program consisting of incentives for private landowners who allow public hunting access on their land, and development of similar efforts outside the scope of the program that are designed to promote public access to private lands for hunting purposes. The bill also increases the habitat restoration stamp fee from $3 to $5 and the combination license fee from $25 to $27.

Senate Bill No. 2160 adds enforcement of North Dakota Century Code (NDCC) Chapter 39-24.1, which prohibits a person from operating a snowmobile while having a drug in that person's body or an alcohol concentration of at least ten one-hundreths of one percent by weight at the time of the performance of a chemical test within two hours after operating a snowmobile to the powers of the game and fish director.

House Bill No. 1405 revises the chapter governing the operation of private shooting preserves and repeals the requirement that 20 percent of game birds released on any private shooting preserve must remain unharvested. The bill also deletes the requirement that a person hunting on a private shooting preserve possess a general game license and extends the private shooting preserve hunting season from seven months to nine months.

House Bill No. 1056 abolishes the Wetlands Mediation Advisory Board. The board was designed to mediate disputes between persons aggrieved by a decision of the United States Fish and Wildlife Service pertaining to wetlands and the service.

LICENSES AND PERMITS

House Bill No. 1396 provides that 15 percent of the total mule deer licenses and permits to hunt mule deer made available in the immediately preceding year for the regular gun season must be made available to nonresidents to hunt any deer with bow and arrow.

House Bill No. 1214 provides that the Governor may restrict the area of land within a unit open for the hunting of moose for which a landowner preference moose hunting license is issued. The bill provides that if the Governor's proclamation restricts the area for issuance of preference moose licenses, the applicant must own or lease land within the restricted area to be eligible to apply for a license to hunt moose and must pay the resident big game license fee. However, the license may be used to hunt moose within the entire unit in which the land described in the affidavit is located but an unsuccessful applicant from a restricted area may not return an unused license to regain eligibility for a license to hunt moose in future years.

House Bill No. 1202 provides that if a person receiving a landowner preference license to hunt elk, other than a transferee, is unsuccessful in harvesting an elk, that person may return the unused license to the Game and Fish Department and is eligible to apply for, but not transfer, a one-time additional license to hunt elk in future years. However, that person is not eligible to participate in the Rocky Mountain Elk Foundation raffle under NDCC Section 20.1-08-04.6. The bill also expands the area within which the Governor is required to give primary consideration to allowing preferential licenses to hunt elk to include Township 146 North, Range 97 West. The bill also authorizes the director of the Game and Fish Department to issue special elk depredation management licenses to landowners in designated areas around Theodore Roosevelt National Park. Persons receiving these licenses must pay the resident big game license fee for the license but are eligible to apply for a license to hunt elk in future years and are eligible to participate in the Rocky Mountain Elk Foundation raffle under Section 20.1-08-04.6. The bill became effective March 24, 1997.

House Bill No. 1172 provides that nonresident landowners and lessees are entitled to receive a preferential landowner license to hunt deer upon payment of the nonresident big game license fee.

Senate Bill No. 2137 provides that a person who holds a valid license to hunt deer may hunt the same species and sex of deer, for which that person's license is valid, on land in an adjoining unit for which that person would be eligible for a gratis deer license.

House Bill No. 1302 prohibits county auditors from providing hunting licenses to agents located outside the state.

ORDERS AND PROCLAMATIONS OF THE GOVERNOR

House Bill No. 1196 requires the director to issue two percent of the total white-tailed deer gun licenses available each year to hunters with muzzleloading firearms. Of the two percent, one-half of the licenses issued may be antlered deer licenses.

House Bill No. 1094 provides that the Governor may make an additional five licenses available to the North Dakota Game Warden Association moose license raffle.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 21
Governmental Finance
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 21. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

Senate Bill No. 2121 concerns issuance of certificates of indebtedness by political subdivisions. The bill adds any distribution of federal money and distribution of money from the state to the funds against which political subdivisions may borrow in anticipation of receiving the funds. The bill eliminates the 24-month limit on the term of a certificate of indebtedness (federal tax laws and regulations generally restrict the term of a certificate of indebtedness to 13 months if the certificate is issued on a tax-exempt basis). The bill provides that a certificate of indebtedness is a general obligation of a political subdivision only if it is issued against uncollected property taxes of the political subdivision. The bill eliminates the requirement that the county auditor certify amounts to be received by the issuing political subdivision from federal sources because county auditors have no records regarding these amounts. The bill eliminates the requirement that the county auditor and treasurer set up a special fund for retirement of certificates of indebtedness and allows the political subdivision issuing the certificate to establish a sinking fund for payment of the obligation. The bill establishes a presumption of validity for a certificate of indebtedness issued under state law and provides for exemption of interest on certificates of indebtedness from state taxes other than inheritance, estate, and transfer taxes.

House Bill No. 1299 amends provisions of law relating to vote requirements for approval of ballot questions. The bill changes the vote approval requirement from a majority of electors voting at the election to a majority of voters voting on the question of allowing bond proceeds that have not been used for the purpose they were issued to be used for another purpose.

House Bill No. 1380 provides that if funds are on hand to retire a bond issue, the bonds must be retired and the levy for the bonds must be terminated.

House Bill No. 1294 adds a bridge eligible for federal matching funds to the projects for which bonds may be issued by a political subdivision.

Senate Bill No. 2157 adds revocable standby letters of credit issued by federal home loan banks and letters of credit issued by the Bank of North Dakota to the securities that may be a pledged as security for repayment of deposits by a financial institution.

House Bill No. 1346 adds the Veterans Cemetery trust fund to the funds under the investment management of the State Investment Board.

Prepared by the North Dakota Legislative Council staff
April 1997

TITLE 22
Guaranty, Indemnity, and Suretyship
Summary of Bills Enacted by 1997 Legislative Assembly

There was no legislation enacted that primarily affected North Dakota Century Code Title 22. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 23
Health and Safety
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 23. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

The legislation relating to health and safety may be classified in nine subject areas.

AIR POLLUTION CONTROL

House Bill No. 1410 limits when the State Department of Health may adopt air quality rules or standards that are more strict than federal rules or standards under the federal Clean Air Act and increases to 11 the size of the State Health Council.

Senate Bill No. 2356 prohibits the State Department of Health from adopting ambient air quality rules or standards for sulfur dioxide which affect coal conversion facilities or petroleum refineries and are more strict than federal rules or standards under the federal Clean Air Act.

BASIC CARE FACILITIES

House Bill No. 1012 continues the moratorium on the expansion of basic care bed capacity; providing except when existing beds are converted for use by the Alzheimer's and related dementia population under the projects provided for in Section 50-06-14.4, the Department of Health may not issue a license for any additional bed capacity above the state's gross licensed capacity and transfers of existing beds from one municipality to another municipality must be approved if the Department of Health licensing requirements are met only to the extent that for each bed transfer approved the total number of licensed beds in the state is reduced by the same number transferred.

BURIAL OF THE DEAD

Senate Bill No. 2170 provides the duty of burying or cremating a resident or inmate of a public institution devolves upon the county in which the deceased was a resident for county general assistance purposes immediately before entering the institution.

DISEASES

Senate Bill No. 2202 provides that an individual who has significantly exposed another to the human immunodeficiency virus may be confined until a hearing is held or order issued establishing security. The bill also decreases the burden of proof necessary to have an order requiring testing issued.

Senate Bill No. 2208 concerns the State Health Officer's duties over individuals having or suspected of having tuberculosis. The bill also provides penalties for individuals failing to comply with required tuberculosis treatment or examination.

House Bill No. 1349 establishes a rabies control procedure for dealing with any animal that exposes a human to possible rabies.

EMERGENCY MEDICAL SERVICES

House Bill No. 1257 requires the State Health Council to adopt quality review standard rules for emergency medical services personnel. The bill also provides a certified emergency medical technician-intermediate or paramedic employed by a hospital and working in a nonemergency setting is under the supervision of the hospital's patient services management.

FEDERAL WELFARE REFORM ACT

House Bill No. 1226 governs when the name of a father may be entered on the birth certificates of some children born outside marriage. The bill also provides a death certificate must include the Social Security number of the decedent.

LODGING

Senate Bill No. 2004 replaces the terms "hotels, motels, roominghouses, and lodginghouses" with "lodging establishments" as used in the chapter relating to lodging establishments. The bill also revises sanitary and safety requirements for food and lodging establishments and changes the license requirements and fees for food or lodging establishments.

House Bill No. 1254 allows proration of license fees for new mobile home parks, trailer parks, and campgrounds and imposes a penalty for failure to renew a license.

Senate Bill No. 2361 increases to seven the number of lodging units a bed and breakfast facility may have.

MEDICAL PEER REVIEW RECORDS

Senate Bill No. 2301 creates a new chapter that provides medical peer review records are confidential, requires medical peer review committees under certain situations to report to the Commission on Medical Competency, and limits the liability of those that provide records to medical peer review committees. The bill also repeals the existing law relating to mandatory hospital committees or extended care facility committees.

VOTING

House Bill No. 1299 provides that the "majority" required to form a health district under Section 23-14-01, dissolve a health district under Section 23-14-13, withdraw from a health district under Section 23-14-13.1, or issue a permit for a solid waste management facility under Section 23-29-07, is a majority of the votes cast on the question.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 24
Highways, Bridges, and Ferries
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 24. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

Senate Bill No. 2372 clarifies that section lines are public roads open for public travel.

Senate Bill No. 2333 authorizes the local governing body to adopt rules governing the disposal of stored hay or other obstructions placed in the right of way of a county or township road.

House Bill No. 1177 requires the Department of Transportation to negotiate with federal agencies to move no-mow acres on United States Highways 2 and 83 to Interstate Highway 94 or 29.

House Bill No. 1122 closes from public inspection records relating to the financial condition of a consultant to the Department of Transportation or a party subject to an audit by the department.

House Bill No. 1281 provides for a procedure by which the director of the Department of Transportation may vacate land acquired by purchase and return that land to the original seller if the land is no longer necessary for highway purposes and the cost of the sale exceeds the estimated value of the property.

Senate Bill No. 2164 raises the threshold from $15,000 to $50,000 for county road equipment contracts to be advertised and allows lease purchase agreements that do not exceed $20,000 per year for five years.

House Bill No. 1057 repeals the Outdoor Recreation Interagency Council, thereby removing references to that council throughout the North Dakota Century Code.

Senate Bill No. 2012 allows for the formation of a multistate infrastructure bank for the funding of highway projects. The bill also provides for the termination of the special road fund and the Special Road Advisory Committee on July 1, 1999.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 25

Mental and Physical Illness or Disability
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 25. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

The legislation relating to mental and physical illness or disability may be classified in these subject areas: state treatment facilities and civil commitment.

STATE TREATMENT FACILITIES

House Bill No. 1012 removes the requirement that the Westwood Park Assets Management Committee meet annually to elect its officers and provides that the chairman of the committee is appointed by the Governor. The bill further removes the authority of the committee to lease or manage property of Westwood Park.

House Bill No. 1013 provides that the tenure of office and removal provisions of subsection 2 of Section 25-01-03 do not apply to the superintendent of the School for the Blind or the superintendent of the School for the Deaf.

Senate Bill No. 2120 designates the School for the Blind as a statewide resource center for the provision of services to residents of the state, including vision specific consultation, evaluations, information, and training and loans of adaptive devices, equipment, and materials. The bill provides that the superintendent of the School for the Blind may also serve as the superintendent of the School for the Deaf. The bill repeals North Dakota Century Code Section 25-06-08, which related to the furnishing of clothing and incidentals to residents of the School for the Blind.

Senate Bill No. 2149 removes the requirement that the supervising officer of the State Hospital appoint a medical director. The bill also provides that the medical director is responsible for recommending the appointment of all physicians and clinical staff. The bill provides that the State Hospital Governing Body has final approval of all physician and clinical staff appointments to the State Hospital.

Senate Bill No. 2165 provides for the establishment of a revolving vision aids, devices, and appliances fund to be used by the School for the Blind to purchase and resell vision specific adaptive aids, devices, and appliances to be used by blind and visually impaired persons in the state. The bill provides for a continuing appropriation for the expenditures. This bill became effective on March 27, 1997.

CIVIL COMMITMENT

House Bill No. 1047 establishes the procedures for the civil commitment of sexually dangerous individuals. The bill includes provisions for the confidentiality of proceedings, right to counsel, notice, appeal, limitation of liability, and recovery of expenses.

Senate Bill No. 2059 provides that otherwise confidential records may be disclosed to law enforcement agencies to confirm and investigate the address of a person required to register as a sexual offender under Section 12.1-32-15.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 26.1
Insurance
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 26.1. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

The legislation relating to insurance may be classified in 10 subject areas.

COMMISSIONER OF INSURANCE

House Bill No. 1010 increases the annual salary of the Commissioner of Insurance to $55,487 through June 30, 1998, and $57,120 thereafter.

GOVERNMENT SELF-INSURANCE POOLS

House Bill No. 1015 increases the types of investments a government self-insurance pool may make; with express exceptions, allowing investments similar to those described in Section 26.1-10-02.

HEALTH INSURANCE

House Bill No. 1168 implements the requirements of the federal Health Insurance Portability and Accountability Act of 1996.

House Bill No. 1287 defines "limited benefit policy" as used in Title 26.1 and provides any statute that becomes effective after January 1, 1997, does not apply to a limited benefit policy unless expressly provided.

House Bill No. 1418 prohibits insurers from interfering with certain medical communications or taking certain retaliatory actions solely on the basis of a medical communication. The bill also prohibits certain indemnity provisions in contracts between health care providers and third-party administrators.

House Bill No. 1428 prohibits insurers from excluding coverage for medications on the grounds the drug is prescribed for an off-label use.

Senate Bill No. 2040 extends the accident and health insurance mandate for group health policy mental disorder coverage to include residential treatment.

Senate Bill No. 2043 creates an accident and health insurance mandate establishing a minimum requirement of postdelivery coverage for mothers and newborns of 48 hours for normal vaginal deliveries and 96 hours for normal caesarean deliveries.

Senate Bill No. 2115 creates an accident and health insurance mandate requiring health insurers to cover yearly digital rectal examinations and prostate-specific antigen tests for certain males.

Senate Bill No. 2194 creates an accident and health insurance mandate requiring coverage for medical foods and low protein modified food products necessary for the therapeutic treatment of maple syrup urine disease or phenylketonuria.

LIQUIDATION OR REHABILITATION

Senate Bill No. 2236 changes the types of transactions which may be set off in insurance company liquidation or rehabilitation.

Senate Bill No. 2310 redefines the priority class members for distribution of claims from an insurer's estate in insurance company rehabilitation and liquidation proceedings.

LONG-TERM CARE INSURANCE

Senate Bill No. 2042 requires long-term care insurers that provide coverage for home and community-based services to cover services provided by qualified service providers.

LOW-RISK INCENTIVE FUND

Senate Bill No. 2396 allows a corporation or limited liability company to own and operate the low-risk incentive fund, which makes loans to primary sector businesses. The Bank of North Dakota receives applications for these loans and administers all loans issued by the fund. The bill also addresses how insurers participating in these loans are impacted in the areas of tax credits and assets.

MUTUAL INSURANCE COMPANIES

Senate Bill No. 2270 allows a nonprofit health service corporation to convert to a nonprofit mutual insurance company, establishes the legal framework applicable to nonprofit mutual insurance companies, and specifies the existing laws that apply to nonprofit insurance companies.

House Bill No. 1259 relates to the reorganization of mutual insurance companies and the formation by mutual insurance companies of mutual insurance holding companies.

REAL PROPERTY INSURANCE

House Bill No. 1249 provides unless otherwise provided in the policy, any real property and casualty insurance claim for an appurtenant structure must be settled for actual replacement cost or actual cash value.

SOVEREIGN IMMUNITY

House Bill No. 1153 repeals Section 26.1-21-10.1, relating to legal defense of state employees in civil actions and inserts the substance of this section in Title 32. The bill also repeals the law allowing the Attorney General to withdraw from the state bonding fund those amounts necessary to pay the cost of defending state employees.

MISCELLANEOUS

Senate Bill No. 2132 identifies when the Commissioner of Insurance is required to collect an annual filing fee versus a premium tax from insurers; decreases the power of the Insurance Commissioner to adopt rules for informative captions for some insurance policies sold to persons eligible for Medicare; and changes the endorsement requirements for surplus line insurance to include the broker's name and date of endorsement and remove the broker's license number requirement. The bill also allows domestic insurance companies to invest the company funds and accumulations in all

loans, securities, or investments, but limits all investments by these companies to the lesser of seven percent of the company's admitted assets or the amount equal to the company's capital and surplus in excess of the minimum capital and surplus required by law.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 27
Judicial Branch of Government
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 27. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

The legislation relating to the judicial branch of government may be classified in these subject areas: juvenile courts; jury selection; State Bar Association; small claims court; and miscellaneous.

JUVENILE COURTS

House Bill No. 1045 allows for the prosecution of an adult for an offense committed while a child when the offense was not adjudicated in the juvenile court, unless the state intentionally delayed the prosecution to avoid the juvenile court jurisdiction.

House Bill No. 1147 requires a court to forward a copy of a delinquency order to the juvenile's school principal if the court deems it necessary to ensure the safety or well-being of the juvenile or other persons attending, employed by, or otherwise involved with the school and the offense would constitute a felony were it committed by an adult; the offense was committed on school property; the offense involved a crime against a person; the offense involved a controlled substance or a dangerous weapon; or the school attendance is a condition of probation or parole.

House Bill No. 1306 permits a court to transfer a juvenile to adult court if the juvenile is involved in the manufacture, delivery, or possession with the intent to manufacture or deliver a controlled substance, except for marijuana in an amount less than one pound.

Senate Bill No. 2030 provides for the establishment of a data collection system for juvenile offenders. The bill provides that information on a juvenile who commits sexual assault, murder, kidnapping, felonious restraint, gross sexual imposition, sexual imposition, prostitution, or is involved with the use of or promoting of children in a sexual performance will be sent to the Attorney General. The bill further provides that the Attorney General may release the information to law enforcement for law enforcement purposes, to the Department of Human Services for licensing purposes, and when relevant and necessary, to the juvenile's school for the purpose of maintaining that child's and other children's safety during school activities.

Senate Bill No. 2153 provides that upon a second adjudication of delinquency involving the offense of continuous sexual abuse of a child, the name of the juvenile adjudicated delinquent may be disclosed.

Senate Bill No. 2209 provides that law enforcement records and files of a child alleged or found to be delinquent, unruly, or deprived must be kept separate from the records and files of arrests of adults and the records and files are not open to public inspection.

JURY SELECTION

House Bill No. 1064 permits the court to select prospective jurors from one or more counties in the judicial district in which the court is located if the county of venue has a population of not more than 10,000 persons and the court determines that the number of prospective jurors within the county of venue is inadequate to obtain a fair and impartial jury.

Senate Bill No. 2228 provides that information provided to the State Bar Association regarding applicants or participants in a lawyer referral service or volunteer lawyer program administered by the State Bar Association is confidential.

House Bill No. 1195 increases the fine for misrepresentation on a juror qualification form by a prospective juror from $500 to $1,000.

STATE BAR ASSOCIATION

Senate Bill No. 2002 increases the maximum fee that may be assessed to an applicant for admission to the state bar from $50 to $150; increases the maximum fee from each applicant for admission to the state bar who seeks admission upon motion from $200 to $400; and increases the maximum annual license fee for admission to the state bar from $250 to $400. The bill provides that the State Bar Association must pay $50 of each license fee beginning January 1, 1998, and $75 of each license fee beginning January 1, 1999, for operation of the lawyer discipline system. The bill provides that 80 percent of the remaining amount of the annual license fees paid by licensed members must be paid to the State Bar Association for the purpose of administering and operating the association.

Senate Bill No. 2103 permits the State Bar Board to increase its membership to five members.

SMALL CLAIMS COURT

House Bill No. 1453 permits a small claims action if the plaintiff is a political subdivision and the claim is for a public utility debt in the county in which the political subdivision is located.

Senate Bill No. 2068 authorizes a court to waive a small claims hearing if an election to remove the action to district court is not received within 20 days of service and requires a defendant electing to remove the action to district court to pay the answer filing fee.

MISCELLANEOUS

House Bill No. 1299 provides that the acceptance of jurisdiction may be made by an affirmative vote of the majority of the enrolled residents voting on the question who are 18 years of age or older, at an election called and supervised by the North Dakota Indian Affairs Commission upon petition of 15 percent or more of those eligible to vote at such an election.

Senate Bill No. 2062 authorizes the Governor, upon the receipt of a list of nominees to fill a judicial vacancy, to allow an appointee to a judicial position to serve the remainder of the term.

Senate Bill No. 2123 provides for the creation of a hearing panel to conduct hearings concerning the discipline, removal, retirement, or transfer to incapacity inactive status of any judge.

Senate Bill No. 2148 reduces from 18 months to 12 months the length of time a foster care order may be extended beyond the expiration of any other limited order.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 28
Judicial Procedure, Civil
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 28. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

The legislation relating to judicial civil procedure may be classified in these subject areas: administrative procedure; venue; judgments; and miscellaneous.

ADMINISTRATIVE PROCEDURE

House Bill No. 1030 authorizes the Committee on Administrative Rules to find a rule void at the meeting at which the rule is initially considered by the committee or the committee may hold consideration of that rule for one subsequent meeting.

House Bill No. 1042 provides that in a hearing for the suspension, revocation, or disqualification of an operator's license under Title 39, the term "party" may include each city and each county in which the alleged conduct occurred, but the city or county may not appeal the decision of the hearing officer.

House Bill No. 1158 provides a new definition of adjudicative proceeding and incorporates the rules of civil procedure for notice of hearing, service requirements, and discovery, and provides procedures for emergency adjudicative proceedings.

House Bill No. 1183 authorizes the Office of Management and Budget to adopt rules relating to conduct on the Capitol grounds and in buildings on the Capitol grounds.

House Bill No. 1191 provides for additional procedures for the review of administrative rules by the Committee on Administrative Rules.

Senate Bill No. 2336 includes the Superintendent of Public Instruction within the definition of administrative agency for the purposes of the Administrative Agencies Practice Act.

Senate Bill No. 2398 includes within the definition of administrative agency the Industrial Commission with respect to the activities of the North Dakota Farm Finance Agency for the purposes of the Administrative Agencies Practice Act.

VENUE

House Bill No. 1063 permits a court to change the place of a pretrial hearing or proceeding, except a hearing for a motion to suppress evidence, from the location in which the matter was originally to be heard. The bill further provides that the court may change the place of the trial from the location in which the matter was originally to be heard unless any party files an objection to the change of trial no later than 10 days after the date of notice of assignment of a judge for trial of the case.

JUDGMENTS

House Bill No. 1226 authorizes the Department of Human Services to issue a writ of execution against the property of a judgment debtor if a judgment has been docketed in an amount greater than six times the monthly child support obligation and the judgment debtor is not current in a court-established plan to repay the unpaid child support judgment.

House Bill No. 1323 provides that a judgment creditor must show that the debtor has a present interest in the real property subject to sale by court order, but does not require the furnishing of an abstract of title.

House Bill No. 1324 requires the full name of the judgment debtor and the judgment debtor's date of birth be included when executing a judgment on money, judgments, drafts, and promissory notes.

MISCELLANEOUS

House Bill No. 1351 provides for a waiver of privilege for health care providers in malpractice cases.

Senate Bill No. 2217 requires a medical malpractice case to be dismissed without prejudice when the plaintiff fails to obtain an admissible expert opinion to support the allegation of malpractice within three months. The bill requires an affidavit identifying the name and business address of the expert and a brief summary of the basis for the expert's opinion.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 29
Judicial Procedure, Criminal
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 29. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

The legislation relating to judicial criminal procedure may be classified in these subject areas: criminal procedure and law enforcement and corrections.

CRIMINAL PROCEDURE

House Bill No. 1063 authorizes a court to change the place of a criminal pretrial hearing or proceeding from the location in which the matter was originally to be heard. The bill also authorizes a court to change the location of a criminal trial unless a party files an objection to the change of trial.

House Bill No. 1109 removes the mandatory first hearing from the statutory procedure for reimbursement of indigent defense costs and expenses and provides that the defendant may request a hearing with 30 days of receiving notice of the reimbursement amount. The bill also increases from $50 to $75 the presumed hourly rate for appointed counsel services.

House Bill No. 1275 authorizes the nearest available magistrate to issue the arrest warrant or handle the arraignment of an arrested individual.

LAW ENFORCEMENT AND CORRECTIONS

Senate Bill No. 2108 provides that for the purposes of safety, security, discipline, medical care, or when in the best interests of the public, the inmate, or the Department of Corrections and Rehabilitation, the department is authorized to transfer inmates from one correctional facility to another.

Senate Bill No. 2112 allows a peace officer to arrest a person subject to a tribal arrest warrant and provides for extradition proceedings.

Senate Bill No. 2266 authorizes a law enforcement officer to arrest a person without a warrant if the person violates an order prohibiting contact with the victim of domestic violence.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 30
Judicial Procedure, Probate
Summary of Bills Enacted by 1997 Legislative Assembly

There was no legislation enacted that primarily affected North Dakota Century Code Title 30. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 30.1
Uniform Probate Code
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 30.1. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

House Bill No. 1091 provides that nonprobate transfers on death of bank accounts are governed by the terms of the account rather than by the type of account.

House Bill No. 1092 applies the Uniform Prudent Investor Act to a trustee.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 31
Judicial Proof
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 31. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

Senate Bill No. 2153 includes the continuous sexual abuse of a child as one of the crimes for which an oral videotaped statement is admissible as evidence in a court proceeding. The bill also provides for the mandatory DNA testing of a person convicted of the continuous sexual abuse of a child.

Senate Bill No. 2301 provides that the inadmissibility of certain records and proceedings of medical review committees under Section 31-08-01 are now addressed under Title 23.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 32
Judicial Remedies
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 32. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

The legislation relating to judicial remedies may be classified in these subject areas: risk management; civil liability; and miscellaneous.

RISK MANAGEMENT

House Bill No. 1015 requires the director of the Office of Management and Budget to develop a state self-retention program that provides as much coverage as possible of potential liability, but that includes insurance purchases in a manner that is determined appropriate by the director in consultation with the state risk manager.

House Bill No. 1153 provides for changes to the procedures by which claims may be filed against the state. The liability of the state is changed from $750,000 per occurrence to $1 million per occurrence. The bill includes a claim for damage to property owned by the state and a claim for liability assumed under contract to the list of claims for which the state is not liable. The bill requires that the state will indemnify and hold harmless a state employee acting within the scope of employment for any claim or judgment provided the employee provides complete disclosure and cooperation in the defense of the claim. The bill also provides for the confidentiality of certain claims records from the open records law.

CIVIL LIABILITY

House Bill No. 1176 imposes civil liability on a person who willfully or purposefully disseminates a false and defamatory statement regarding an agricultural producer or an agricultural product and the agricultural producer is damaged as a result. The bill allows for injunctive relief and for the recovery of compensatory and exemplary damages.

House Bill No. 1211 provides immunity from civil liability for a person acting in good faith and within the scope of the person's duties as a volunteer for a nonprofit organization or for a person providing assistance to a sports team.

Senate Bill No. 2037 provides for a limitation of liability of the owner or operator of a railroad for an injury to an individual riding on a locomotive or railroad car without the authority of the owner or operator.

MISCELLANEOUS

House Bill No. 1399 includes a surviving grandparent and a person who has had primary physical custody of the decedent before the wrongful act as persons who may bring a wrongful death action.

Senate Bill No. 2108 repeals North Dakota Century Code Section 32-22-36, which provides that except under certain circumstances prisoners may not be removed from one prison facility to another.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 33
County Justice Court
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 33. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

House Bill No. 1343 allows for a stay in eviction proceedings if the tenant can show that immediate restitution of the premises would work a substantial hardship on the tenant.

House Bill No. 1345 alters the way service may be performed in eviction proceedings when the defendant cannot be located.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 34
Labor and Employment
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 34. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

The legislation relating to labor and employment may be classified in six subject areas.

CHILD LABOR

Senate Bill No. 2317 excludes minors employed in school-to-work transition programs from the maximum labor hours of minors provisions and subjects these minors to certificate of employment requirements.

House Bill No. 1175 removes the child identification requirements of place of birth, hair and eye color, height, weight, and facial marks on employment certificates for minors.

COMMISSIONER OF LABOR

House Bill No. 1007 increases the Commissioner of Labor's annual salary to $54,948 through June 30, 1998, and $56,592 thereafter.

House Bill No. 1100 requires the Commissioner of Labor to disclose information collected and determinations made to the parties of a wage collection investigation and provides these decisions and information are open records when collection of a wage collection claim is enforced. The bill also allows the commissioner to publish aggregate employment-related statistics and removes the second chance provision relating to prosecution of employers for failure to provide requested information to the commissioner.

EMPLOYER AND EMPLOYEE

House Bill No. 1193 provides employers or former employers are immune from civil liability for truthfully disclosing employee information to prospective employers.

House Bill No. 1468 allows certain employees to bring civil actions claiming employers engaged in prohibited retaliation, provides courts remedy guidelines, and specifies the Commissioner of Labor's powers when retaliation claims are received by the commissioner.

EMPLOYMENT AGENCIES AND AGENTS

Senate Bill No. 2143 defines "gross misconduct" as it applies to licensing of employment agents and agencies and specifically requires persons with a physical presence in this state to be licensed to conduct business as employment agencies. The bill also extends the exemptions for mandated refund of service charges of employment agencies under Section 34-13-13.1(1).

FEDERAL WELFARE REFORM ACT

House Bill No. 1226 creates a new chapter relating to labor and employment, implementing the federal Welfare Reform Act. The chapter creates a state directory of new hires that receives mandated new hire information from employers and forwards this information to the national directory of new hires.

WAGES AND HOURS

House Bill No. 1197 allows the Commissioner of Labor to issue a special license, allowing payment at less than the minimum wage, to employers of students or learners enrolled in vocational education or related programs and to community rehabilitation programs for the handicapped.

Senate Bill No. 2162 repeals the statute that requires employers to post in a conspicuous place the law on equal pay for men and women.

Senate Bill No. 2205 removes the effective date requirement that orders of the Commissioner of Labor regarding wages and hours become effective 60 days after rendition.

House Bill No. 1466 allows the Commissioner of Labor to exercise discretion in determining whether to take an assignment in trust for unpaid wages in enforceable claims. The bill also expressly authorizes the commissioner to consider additional factors in enforcement of wage requirements.

Prepared by the North Dakota Legislative Council staff
April 1997

TITLE 35
Liens
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 35. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

The legislation relating to liens may be classified in five subject areas.

CENTRAL NOTICE SYSTEM

Senate Bill No. 2279 requires the Secretary of State to create a form to obtain a lien for unpaid earned property or casualty insurance premiums, provides a lien entered on this form may be entered in the central notice system, and provides these liens may be amended using forms created by the Secretary of State.

Senate Bill No. 2323 requires the Secretary of State to create a form to obtain a lien for a repairman's lien, provides a lien entered on this form may be entered in the central notice system, and provides these liens may be amended using forms created by the Secretary of State.

CROP LIENS

Senate Bill No. 2272 provides if a lienholder with an agister's lien, agricultural processor's lien, or agricultural supplier's lien fails to file a termination statement within 60 days after the lien is satisfied, the lienholder is liable to the debtor for $100.

Senate Bill No. 2324 provides an agricultural processor's lien or agricultural supplier's lien filed as a security interest created by contract to secure money advanced or loaned for any purpose is not effective to secure priority over liens on growing and unharvested crops. The bill also changes the agricultural processor's lien statement requirements; requires that before a processor's lien or supplier's lien is filed, a billing statement for the services performed must include notice to the agricultural producer that if the amount due to the agricultural processor is not satisfied a lien may be filed; and decreases the amount of time a person entitled to an agricultural supplier's lien for furnishing and delivering petroleum products has to file a verified statement with the Secretary of State and changes the information required on this statement.

Senate Bill No. 2218 allows an agriculture cooperative to have a security interest in growing and unharvested crops, allows crop liens to attach to future grown crops if the security agreement contains an after-acquired property clause, and provides the priority of these liens. The bill also repeals a statute that provided a security agreement covering specific crops does not create a security interest in the specific crops and is not entitled to be filed if the agreement claims a security interest in any other personal property.

FEDERAL WELFARE REFORM

House Bill No. 1226 creates a new lien chapter that implements provisions of federal welfare reform, allowing liens on a child support obligor's personal property when a past due child support obligation is at least six times the monthly child support obligation and the obligor is not current in a court-established plan to repay the past due support. Personal property subject to a lien includes motor vehicles, watercraft, and bank accounts.

MOBILE HOME LIEN

Senate Bill No. 2198 creates a statutory lien on an abandoned mobile home for storage and removal of the abandoned mobile home.

STORAGE LIEN

Senate Bill No. 2248 creates a statutory lien on personal property stored under a rental agreement in a storage space at a self-service storage facility for failure of a renter to pay rent for self-storage.

Prepared by the North Dakota Legislative Council staff
April 1997

TITLE 36
Livestock
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 36. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

Senate Bill No. 2393 adds to the list of reasons for refusing or revoking a livestock dealer's license failure to pay brand inspection fees or veterinarian fees, failure to collect beef promotion assessments, and failure to pay for livestock purchased. The bill also specifies unlawful acts for which an auction market or a person may be charged with a Class A misdemeanor and subject to a civil penalty in an amount up to $5,000.

House Bill No. 1121 removes paratuberculosis as a disease for which an infected animal must be killed.

House Bill No. 1182 prohibits the private keeping of skunks or raccoons and authorizes the State Veterinarian to confiscate these animals. The bill also directs the State Board of Animal Health to adopt rules governing the keeping of primates (other than humans), wolves, and wolf hybrids.

House Bill No. 1282 provides that organizations authorized to conduct games of chance may raffle live beef or dairy cattle if each ticket contains a statement that the winner may convert the prize to a cash prize.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 37
Military
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 37. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

Senate Bill No. 2049 allows for this state to enter an interstate mutual aid agreement or compact in substantially the same form as provided by this bill.

Senate Bill No. 2081 provides that the Adjutant General's payment of tuition reimbursement is to the qualifying member of the National Guard enrolled at a state-controlled school, rather than to the state-controlled school.

House Bill No. 1117 provides for the membership contribution paid by members of the Veterans Home to be deposited in the Veterans Home operating fund instead of the Veterans Home improvement fund, which was an investment fund.

House Bill No. 1118 authorizes, rather than requires, of the Commissioner of Veterans Affairs to request an administrative hearing for a veteran that has requested a hearing upon not receiving veterans' preference in employment.

Prepared by the North Dakota Legislative Council staff
April 1997

TITLE 38
Mining and Gas and Oil Production
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 38. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

House Bill No. 1342 consolidates regulation of geophysical exploration with the Industrial Commission. The bill also increases geophysical exploration contractors bonds from $15,000 for a single geophysical crew or $30,000 for a blanket surety bond to $50,000 if the contractor intends to conduct shothole operations or $25,000 if the contractor intends to use any other method of geophysical exploration. The bill also requires subcontractors engaged by a geophysical exploration contractor for the drilling or plugging of seismic shotholes to file a bond in the amount of $10,000. The bond must cover plugging operations as well as geophysical exploration. The bill allows a person required to post a bond to post cash or a certificate of deposit in lieu of the bond under rules adopted by the Industrial Commission. Finally, the bill appropriates $125,000 from the lands and minerals trust fund and $125,480 from the oil and gas impact grant fund to the Oil and Gas Division of the Industrial Commission for the purpose of enforcing the laws and rules relating to geophysical exploration for the upcoming biennium. The bill becomes effective July 1, 1997.

House Bill No. 1132 adds volcanic ash, precious metals, and carbonates to the definition of subsurface minerals for purposes of the regulation, development, and production of subsurface minerals and specifies that the term subsurface minerals does not include sand and gravel and rocks crushed for sand and gravel. The bill also adds volcanic ash, precious metals, carbonates, thorium, and uranium to the definition of subsurface minerals for the purpose of resolving conflicts in subsurface mineral production.

House Bill No. 1194 provides that oil and gas production reports need not be notarized but must be signed by the person submitting the report.

Senate Bill No. 2351 provides that agreements for gravel and sand surface mining operations must provide for restoration of the affected land to the agreed contour and usability rather than the original contour and productivity.

Senate Bill No. 2107 repeals North Dakota Century Code Section 38-08-06.1, which designated the Industrial Commission as the state agency to make natural gas well determinations to establish the ceiling price that certain categories of gas would receive under the Natural Gas Policy Act of 1978.

Senate Bill No. 2035 abolishes the Reclamation Research Advisory Committee.

Prepared by the North Dakota Legislative Council staff
April 1997

TITLE 39
Motor Vehicles
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 39. Bills primarily affecting other titles may also affect this title, and the relevant sections of those bills are summarized in this memorandum.

The legislation relating to motor vehicles may be classified in these subject areas: information; driver's licenses; special vehicles; Highway Patrol; traffic laws and disposition; mobile homes; title and registration; snowmobiles; and driving while under the influence.

INFORMATION

House Bill No. 1103 creates rules for the disclosure of personal information contained in motor vehicle records in accordance with the Federal Driver's Privacy Protection Act of 1994.

Senate Bill No. 2209 provides that a law enforcement agency may not publicly release the identity of a person in a serious accident until a member of the immediate family has been notified or 24 hours has elapsed.

DRIVER'S LICENSES

Senate Bill No. 2109 lowers the fee for a substitute driver's permit or license to $3 if the substitute is needed because of a change in name or address.

House Bill No. 1267 requires the written portion of a driver's license examination to be made available to an applicant in any widely practiced language.

SPECIAL VEHICLES

House Bill No. 1095 requires strobe lights on every schoolbus that seats at least 16 students and is manufactured after July 31, 1998, and requires the strobe lights to be in operation whenever the schoolbus is transporting children on a highway.

Senate Bill No. 2264 provides for exemptions from hours of service provisions for intrastate commercial drivers.

House Bill No. 1224 provides for an exemption from federal regulations governing hours on duty and of driving if the driver is transporting agricultural commodities or farm supplies from February 15 through December 15 and if transportation is limited to an area within a 100 air-mile radius from the source of distribution.

House Bill No. 1186 provides for a permit that is valid at all times for the movement of otherwise overwidth self-propelled fertilizer spreaders and agricultural chemical applicators and requires hazard warning signal lamps for nighttime movement.

Senate Bill No. 2012 sets minimum fees for special permits for oversized and overwidth vehicles.
House Bill No. 1310 includes vehicles operated by special deputy sheriffs, agents of the Department of Corrections and Rehabilitation, and licensed railroad police officers within the definition of Class A authorized emergency vehicles.

HIGHWAY PATROL

House Bill No. 1140 allows conversion of sick leave into Highway Patrolmen's retirement system credits under an approved payment plan.

House Bill No. 1139 raises the multiplier for the first 25 years of service to 3.25 percent of final average salary.

Senate Bill No. 2114 provides for appeals of Highway Patrol disciplinary actions to be made through the Central Personnel System, instead of the North Dakota Merit System Council, which is repealed.

TRAFFIC LAWS AND DISPOSITION

Senate Bill No. 2352 raises the fee for a nonmoving violation from $10 to any amount not to exceed $20.

House Bill No. 1108 increases the penalty for four or more times of driving with a suspended or revoked license within a five-year period from a Class B misdemeanor to a Class A misdemeanor.

House Bill No. 1074 increases the speed limits to 65 miles per hour for a paved two-lane highway if it is daytime and if posted at that speed and on paved and divided multilane highways. The bill also sets the interstate speed limit at 70 miles per hour.

Senate Bill No. 2090 creates a crime with a penalty of an infraction for careless driving that results in injury to a snow removal equipment operator or causes damage in excess of $1,000 to snow removal equipment.

MOBILE HOMES

Senate Bill No. 2126 provides for one dealer plate to be issued with a mobile home dealer's or trailer dealer's license.

House Bill No. 1364 requires the owner of a park model trailer to pay the Department of Transportation a fee of $20 per calendar year to qualify for exemption from the mobile home tax.

TITLE AND REGISTRATION

Senate Bill No. 2245 removes the requirement that copies of instruments or documents of authority needed to transfer title to an automobile need to be certified.

House Bill No. 1243 limits motor vehicle body damage disclosure requirements to motor vehicles manufactured in the current year or previous seven years. The bill allows the holder of a marked title to have the mark removed if more than eight years have

elapsed since the date of manufacture of the motor vehicle. The bill defines motor vehicle damage to mean damage that equals or exceeds the greater of $5,000 or 40 percent of the National Automobile Dealers Association used car guide value of the motor vehicle. Also, the bill places a duty on repair shops to notify owners of motor vehicles being repaired of body damage disclosure and salvage certificate laws. In addition, the bill requires the owner of a vehicle that is damaged in excess of 75 percent of its value to apply for a salvage certificate of title.

Senate Bill No. 2337 allows owners of collector motor vehicles to display number plates from the year in which the motor vehicle was manufactured.

House Bill No. 1346 allows for the issuance of North Dakota Veterans Cemetery number plates and for the distribution of an additional $15 in fees required to be paid to receive the plate.

Senate Bill No. 2269 provides for identical plates that contain the word "SHERIFF" for vehicles used and owned by a sheriff's department and the word "POLICE" for the vehicles used and owned by a city's police department and requires vehicles with these plates to have a clearly visible distinctive identification number on the rear of the vehicle.

SNOWMOBILES

Senate Bill No. 2159 requires a person that operates a snowmobile on State Parks and Recreation Department land to carry a policy of liability insurance and requires a minimum fine of at least $100 for not carrying a policy of liability insurance.

Senate Bill No. 2160 provides for implied consent procedures and administrative penalties to apply to driving a snowmobile while under the influence of intoxicating liquor or a drug. The bill also creates a crime for a driver of a snowmobile to willfully flee or attempt to elude a peace officer.

DRIVING WHILE UNDER THE INFLUENCE

Senate Bill No. 2212 allows a person with two or more convictions for driving while under the influence to receive a temporary restricted license after two years if that person's license has been revoked for a refusal to submit to testing.

House Bill No. 1084 requires the court to order a defendant in a driving while under the influence case who is not indigent to pay costs of an employee of the State Toxicologist or the Forensic Sciences Division, if one is subpoenaed to testify by the defendant, but is not called as a witness.

House Bill No. 1111 lowers the per se alcohol level for a person under 21 years of age to .02 percent.

House Bill No. 1075 increases the penalty for five or more convictions for driving while under the influence in seven years from a Class A misdemeanor to a Class C felony. The bill also includes within the definition of an "appropriate licensed addiction treatment program" an addiction treatment program conducted by a licensed individual specifically trained in addiction treatment.

House Bill No. 1083 provides that a certified copy of the chemical analysis must be received into evidence and accepted as prima facie evidence of the chemical analysis if issued by the State Toxicologist.

Prepared by the North Dakota Legislative Council staff
April 1997

TITLE 40
Municipal Government
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 40. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

The legislation relating to municipal government may be classified in these subject areas: municipal courts; city elections; public improvement projects; zoning and subdivision regulation; city park districts; and annexation.

MUNICIPAL COURTS

House Bill No. 1171 provides that the municipal judge is responsible for the supervision of the municipal court clerk or deputy clerk when the clerk or deputy clerk is performing judicial or administrative functions on behalf of the municipal court. The bill allows the municipal judge to assign responsibilities to the municipal court clerk or deputy clerk, including the administration of the office of the municipal court and the supervision of other personnel of that office.

House Bill No. 1195 increases the maximum amount of a fine or penalty for a violation of a city ordinance from $500 to $1,000.

CITY ELECTIONS

House Bill No. 1127 provides that when a city enters an agreement with a county to hold a city election in conjunction with the county election, the deadline for giving notice of the city election along with the offices to be filled at the election may be adjusted to meet the publishing requirements of the county.

House Bill No. 1230 provides that council members may be elected at large, rather than by wards, in cities that have a population of more than 600 but not exceeding 5,000.

House Bill No. 1234 provides that recounts in city elections are to be governed by the rules applicable to county elections. The bill also provides that if a recount results in a tie vote, the choice must be determined by a coin flip in the presence of the governing body of the city in the manner directed by the governing body.

House Bill No. 1299 provides that in elections regarding the incorporation of a city, the division of a city into wards, the change of the form of city government, the amendment or repeal of a home rule charter, the expenditure of surplus municipal utilities funds, the establishment of a public library, the dissolution of a city park district, the combining of boards of park commissioners, the dissolution of cities, or the consolidation of cities a majority of the votes cast on the question is required for passage of the question.

Senate Bill No. 2092 requires the city auditor to conduct a drawing within five days following the last day for the filing of nomination papers to determine the arrangement of candidate names on city election ballots. The bill allows the city auditor to set the date,

time, and location for conducting the drawing and requires the auditor to give advance notice of the drawing to the candidates involved.

PUBLIC IMPROVEMENT PROJECTS

House Bill No. 1167 authorizes the governing body of a city to use moneys in the visitors' promotion capital construction fund for tourism purposes.

Senate Bill No. 2379 provides that if the owner of property in a city does not make service connections as required, the city may contract for the work to be done if the work is administered and observed under the supervision of the engineer acting for the city.

ZONING AND SUBDIVISION REGULATION

Senate Bill No. 2384 expands the extraterritorial zoning and extraterritorial subdivision regulation authority for a city having a population of less than 5,000 from one-half mile beyond its corporate limits to one mile; for a city having a population of 5,000 or more, but less than 25,000, from one mile to two miles; and for a city having a population of 25,000 or more, from two miles to four miles. The bill also authorizes the governing bodies of cities that have boundaries at a distance where there is an overlap of extraterritorial zoning or subdivision regulation authority to enter an agreement regarding the extraterritorial zoning or subdivision authority of each city. The bill provides that if a dispute arises concerning the extraterritorial zoning or subdivision authority of a city and the governing bodies of the cities involved fail to resolve the dispute, the dispute must be submitted to a committee for mediation. The bill further provides that if the mediation committee is unable to resolve the dispute to the satisfaction of the governing bodies of all the cities involved, the governing body of any of the cities may petition the Office of Administrative Hearings to appoint an administrative law judge to determine the extraterritorial zoning or subdivision authority of the cities in the disputed area. The bill establishes factors that the administrative law judge must consider in making a decision regarding the extraterritorial zoning or subdivision authority.

Senate Bill No. 2199 prohibits the zoning commission, planning commission, or governing body of a city from requiring, as a condition of approval of a request to modify a zoning regulation or approval of a request for approval of a plat, the execution of an agreement by the owner of the property requesting the approval stating that the owner will not oppose the annexation of the property by the city. The bill provides that the prohibition does not apply to property located within one-quarter mile of the city's corporate limits or to an agreement that contains a provision whereby the city agrees to provide a city service or services before the annexation.

CITY PARK DISTRICTS

House Bill No. 1240 allows a board of park district commissioners to provide for employees' pensions pursuant to an authorized city pension plan, the Public Employees Retirement System, or a program approved by the Internal Revenue Service. The bill provides that if a board of park district commissioners wishes to leave an existing city pension plan, the board, upon the request of the pension fund of the governing body, must fund an actuarial study of the financial impacts to the pension fund. The bill requires the park district leaving the pension plan to cover any losses or costs to the fund as a result of the park district leaving the plan.

ANNEXATION

Senate Bill No. 2200 allows the governing body of a city to enter a written annexation agreement with the governing body of another city regarding the annexation of property located within the extraterritorial zoning or subdivision regulation authority of the cities. The bill provides that such an agreement is binding on the governing bodies of the cities for the term of the agreement but may not be binding for more than 20 years. The bill also provides procedures for mediation of disputes regarding annexation and allows the governing body of a city involved in a dispute which is not satisfied with the result of the mediation to petition the director of the Office of Administrative Hearings to hold a hearing on the matter. The bill provides the procedure for the conduct of the hearing and factors to be considered by the administrative law judge in making a decision.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 41
Uniform Commercial Code
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 41. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

The legislation relating to the Uniform Commercial Code may be classified in four subject areas.

ARTICLE 3 - COMMERCIAL PAPER

Senate Bill No. 2171 includes demand drafts in the Uniform Commercial Code commercial paper law and extends the definitions of a drawer of a draft or maker of a note to include a person who is identified in the draft as a person ordering payment or a person who is identified in a note as promisor of payment.

REVISED ARTICLE 5 - LETTERS OF CREDIT

Senate Bill No. 2098 repeals the existing chapter of the Uniform Commercial Code on letters of credit and replaces it with a revised version of the Uniform Commercial Code on letters of credit. The bill also amends portions of Articles 1 and 9, relating to general definitions and secured transactions.

REVISED ARTICLE 8 - INVESTMENT SECURITIES

Senate Bill No. 2099 repeals Chapter 10-18.1, the Uniform Act for Simplification of Fiduciary Security Transfers, and repeals the existing version of Article 8, the Uniform Commercial Code on investment securities, and replaces it with a revised version of Article 8, the Uniform Commercial Code on investment securities. The bill also amends portions of Articles 4 and 9, relating to investment property and uncertificated securities.

ARTICLE 9 - SECURED TRANSACTIONS

Senate Bill No. 2272 provides that for financing agreements, other than financing agreements covering consumer goods, when there is no outstanding obligation and no written commitment between the secured party and the debtor to give value, the secured party is required to terminate the financing agreement once the obligation is satisfied, and failure to terminate may result in financial liability to the debtor.

Senate Bill No. 2142 defines "certificate of deposit" as used in Article 9 of the Uniform Commercial Code secured transaction statutes. The bill also provides a certificate of deposit is perfected under Section 41-09-26 in the same manner as a security interest in letters of credit and advances of credit, goods, instruments other than certificated securities, money, negotiable documents, and chattel paper.

Senate Bill No. 2295 changes the formal requisites of financing statements covering crops growing or to be grown, removing the description of real estate requirement.

Prepared by the North Dakota Legislative Council staff
April 1997

TITLE 42
Nuisances
Summary of Bills Enacted by 1997 Legislative Assembly

There was no legislation enacted that primarily affected North Dakota Century Code Title 42. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 43
Occupations and Professions
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 43. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

The legislation relating to occupations and professions may be classified in 18 subject areas.

BARBERS

House Bill No. 1210 increases the amount of compensation for members of the Board of Barber Examiners and increases the amount of fees the board may charge applicants. The bill also allows the board to require continuing education requirements for barbers.

CONTRACTORS

House Bill No. 1152 amends the contractor licensing deadlines, with the licenses expiring March 1 and creating new deadlines for license invalidity proceedings; when a contractor license is required, requiring a licensed contractor when the cost, value, or job price per job exceeds the sum of $2,000; contractor license revocation provisions, adopting the Administrative Agencies Practice Act and broadening the grounds upon which a contractor's license may be revoked; and record maintenance requirements of the registrar.

COSMETOLOGISTS

House Bill No. 1164 removes the minimum age requirement for student cosmetologists and cosmetologists, removes the "demonstrator" classification, and changes the licensing requirements for a cosmetology manager and manager-operator. The bill also changes what individuals are exempt from the cosmetologists laws and removes the requirement that a cosmetology salon must be separate from all other businesses and establishments.

COUNSELORS

House Bill No. 1160 redefines "counseling," allows the Board of Counselor Examiners to hire or appoint people to assist in the duties of the board, increases the amount the board may charge for licenses and license applications, provides license reinstatement procedures and fees, and amends the complaint and investigation procedure.

ELECTRICIANS

House Bill No. 1384 allows the Electrical Board to order corrections of electrical installations and allows the board to initiate civil court proceedings.

ENGINEERS AND LAND SURVEYORS

House Bill No. 1033 increases the maximum amount of project expenditures a state or political subdivision can spend and still engage in the construction of public works involving the practice of professional engineering.

House Bill No. 1148 allows the State Board of Registration for Professional Engineers and Land Surveyors to issue one- or two-year certificates of registration.

FEDERAL WELFARE REFORM

House Bill No. 1226 implements provisions of the federal Welfare Reform Act by requiring all occupational or professional state licensing authorities to require a licensee to submit the licensee's Social Security number as a condition of licensure and any licensing authority that maintains an automated data base concerning applicants or licensees must include the individual's Social Security number as an identifier in the data base.

FUNERAL SERVICE PRACTITIONERS

Senate Bill No. 2136 defines several terms relating to funeral service practitioners; increases the Board of Funeral Service's powers, including specific rulemaking authority regarding administration of the funeral service practitioner laws, intern embalmers, funeral directors, funeral establishments, and crematoriums; excludes a variety of people and activities from the funeral service practitioner laws; and provides for intern embalmers. The bill also addresses the late renewal, duplication, expiration, and restoration of licenses issued by the board, provides the grounds for disciplinary actions by the board, and revises hearing procedures.

INVESTIGATIVE AND SECURITY SERVICES

House Bill No. 1134 allows the Private Investigative and Security Board to require an extensive background check of license applicants, increase examination and license fees, and adopt continuing education requirements. The bill also addresses injunctions and disciplinary actions.

MASSAGE THERAPISTS

Senate Bill No. 2394 converts massage therapist registration requirements to license requirements and allows the Board of Massage to set educational licensing standards.

NURSES

House Bill No. 1232 provides, until January 1, 2007, an applicant can be licensed as an advanced practice registered nurse if licensed by another state in advanced practice or certified by another state as a women's health care nurse practitioner.

OPTOMETRISTS

House Bill No. 1334 allows optometrists to treat glaucoma and changes the definition of "pharmaceutical agent" by including nonscheduled pharmaceutical agents, except for acetaminophen with 30 milligrams of codeine, that have documented use in the treatment of ocular-related disorders or diseases.

PHARMACISTS

Senate Bill No. 2234 replaces the definition of "administer" with "administration" as it applies to laws relating to pharmacists. Administration means the direct application of a drug to the body of a patient and includes the emergency maintenance of a drug delivery device used in home infusion therapy by a qualified home pharmacist when nursing service is not available, but excludes the regular ongoing delivery of a drug to a patient in a health care setting and other parenteral administration of a drug.

PHYSICIANS AND SURGEONS

House Bill No. 1135 extends the grounds upon which a disciplinary action may be brought against a physician by including violations of any action, stipulation, condition, or agreement of the Commission on Medical Competency; requires physicians, physician assistants, and fluoroscopy technologists to report acts that are grounds for discipline; and provides civil immunity for residents who make complaints to the Commission on Medical Competency.

Senate Bill No. 2122 rewrites the licensing requirements for physicians, exempts some radiologic technologists rendering fluoroscopy from the provisions of the physicians and surgeons licensing law, requires the Board of Medical Examiners to adopt and enforce continuing education requirements, provides the requirements for license renewal, and allows for license renewal late fees.

Senate Bill No. 2301 exempts a physician who obtains information relating to medical incompetence, unprofessional conduct, or inability to safely engage in the practice of medicine, in the course of a professional peer review, from the requirement to report this information to the Commission on Medical Competency.

PODIATRISTS

House Bill No. 1239 changes the disciplinary grounds, disciplinary actions, and reporting requirements of podiatrists.

PSYCHOLOGISTS

Senate Bill No. 2113 provides the procedure for complaints, provides the board the power to investigate psychologists, requires licensees to comply with continuing education requirements, changes the licensing requirements, and extends the number of people exempt from the licensing requirements. The bill also allows the Board of Psychologist Examiners to employ or appoint persons to assist in the board's duties and repeals the existing statutes relating to licensing of psychologists without an examination, applicant qualifications, and hearing procedures.

SOCIAL WORKERS

House Bill No. 1161 provides for the licensing of independent clinical social workers, changes the acceptable professional activities of licensed certified social workers, and sets a maximum limit on the amount of fees the Board of Social Work Examiners may charge. The bill also removes the services of certified social workers and adds the services of licensed independent clinical social workers to mandated group health insurance coverage for mental disorder coverage.

VETERINARIANS

Senate Bill No. 2355 provides the veterinary license application, examination, refusal, suspension, revocation, and renewal requirements. The bill amends the statutes regarding complaints, investigation, disciplinary proceedings, and appeals. The bill also redefines "practice of veterinary medicine" and "veterinary medicine."

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 44
Offices and Officers
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 44. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

The legislation relating to offices and officers may be classified in these subject areas: open records; notaries public; and miscellaneous.

OPEN RECORDS

Senate Bill No. 2228 amends the state open records laws to define various terms used in the open records laws; to establish specific procedures for obtaining access to public records; to provide that personal information regarding a public employee contained in the employee's personnel record or given to the state or a political subdivision by the employee in the course of employment is exempt from the open records law; to provide that information that would identify or provide a means of identifying a confidential informant, if the identity of the informant is not otherwise publicly known, is confidential; to provide that certain economic development records and information are exempt from the open records laws; to allow a public entity to enter agreements for the sale, licensing, and distribution of its licensed, patented, or copyrighted computer software program; to provide that any record of a public entity that is a compilation of children's names, addresses, or phone numbers is exempt from the open records laws; and to provide that certain criminal intelligence and investigative information is exempt from open records laws. The bill also amends open meetings laws to provide that meeting rooms must be accessible to, and the size of the room must accommodate, the number of persons reasonably expected to attend a meeting; to provide that a person has the right to photograph, to record on audio or video tape and to broadcast live on radio or television portions of a meeting not held in executive session if there is no active interference with the conduct of the meeting; to require that where members of a governing body are participating in a meeting by telephone or video, a speakerphone or monitor must be provided at the location included in the meeting notice; to allow a governing body to hold an executive session to consider or discuss closed or confidential records; to allow a governing body to hold an executive session to discuss negotiating strategy or provide negotiating instructions to its attorney or other negotiator regarding litigation, adversarial administrative proceedings, or contracts; to provide that a caucus of members of either house of the Legislative Assembly may meet in executive session if the meeting is not held on public property; to provide that notice of a public meeting must contain the general subject matter of any executive session expected to be held during the meeting; to provide that notice for a public meeting must be filed at the principal office of the governing body holding the meeting; to require governing bodies that hold regularly scheduled meetings to annually file a schedule of the meetings with the Secretary of State if it is a state-level body, the city auditor if it is a city-level body, and the county auditor if it is any other body; to provide that procedural votes must be recorded roll call votes upon the request of any member of a governing body; to specify the contents of minutes of meetings; to allow any interested person to request an

Attorney General's opinion to review a written denial of a request for records or a denial of access to a meeting; and to provide remedies for violations of open records and open meetings requirements.

House Bill No. 1312 removes the requirement that an institution of higher education include justification for maintaining the confidentiality of information regarding grants or contracts involving confidential information in the institution's regular report to the Board of Higher Education of grants and contracts received.

House Bill No. 1124 provides that a credit, debit, or electronic fund transfer card or account number and any financial institution account number that a public entity, elected official, or appointed official uses or has available for making electronic or other deposits, transfers, or payments is not an open record. The bill became effective on January 31, 1997.

Senate Bill No. 2091 provides that a computer software program or component of a computer software program contracted, developed, or acquired by a state entity and for which the state entity acquires a license, copyright, or patent is exempt from open records requirements. The bill allows a state entity to enter an agreement for the sale, licensing, and distribution of its contracted, licensed, patented, or copyrighted computer software programs after receiving written approval from the Governor. The bill also allows a state entity to take any needed action to protect the state's interest in the computer software against improper or unlawful use or infringement. The bill became effective on April 2, 1997.

Senate Bill No. 2017 exempts from open records requirements records provided to the North Dakota Occupational Information Coordinating Committee for use in the followup information on North Dakota education and training system for research or statistical purposes. The bill provides that those records may be used only to prepare aggregate data compilations that do not identify any individual. This portion of Senate Bill No. 2017 becomes effective upon its filing with the Secretary of State.

NOTARIES PUBLIC

House Bill No. 1353 provides that an official notary seal may not contain a reproduction of the Great Seal of the state and that an official seal is the property of the notary only and may not be retained or used by any other person. The bill requires a notary who has legally changed the notary's name to submit to the Secretary of State a rider to the notary's surety bond stating both the old and new names, the effective date of the new name, and a $10 fee within 30 days of the name change. The bill also provides that a notary whose commission is revoked may be denied a new commission for a period of up to six years following the date of revocation. The bill allows a notary public to charge a fee of not more than $5 per notarial act.

Senate Bill No. 2201 provides that the bond of a notary public must be furnished by a bonding company authorized to do business in the state. Previously, the bond could be provided by a surety or a bonding company.

MISCELLANEOUS

House Bill No. 1360 increases the lodging reimbursement for which a state officer or employee may be reimbursed for travel within the state from $35 plus any additional applicable state or local taxes to $39 plus any additional applicable state or local taxes.

Senate Bill No. 2175 increases from 40 days to 60 days the period in which a special election must be called for a recall of an elected official of a political subdivision if valid and sufficient petitions are submitted. The bill also provides that candidates for an office at a recall election must file nominating petitions with the appropriate official by the 33rd day before the scheduled recall election.

Prepared by the North Dakota Legislative Council staff
April 1997

TITLE 45
Partnerships
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 45. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

Senate Bill No. 2344 amends, creates, and repeals portions of the North Dakota Business Corporation Act, Limited Liability Company Act, limited liability partnerships law, income tax law, Uniform Division of Income Tax Act, corporations or limited liability company farming law, Professional Organizations Act, Uniform Limited Partnership Act, and partnership and limited partnership law.

Prepared by the North Dakota Legislative Council staff
April 1997

TITLE 46
Printing Laws
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 46. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

House Bill No. 1119 repeals the requirement that a printer under a state contract of $750 or more must provide the Office of Management and Budget with a copy of each document printed and a bill under the contract. The bill also repeals the prohibition on a state or local official printing the official's name on public documents, envelopes, stationery, or publications in the same size or larger size type than the printed name of the office, department, or agency.

Prepared by the North Dakota Legislative Council staff
April 1997

TITLE 47
Property
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 47. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

Senate Bill No. 2179 allows a commercial and agricultural real estate note or mortgage to provide for a late payment penalty charge to exceed $15 or 15 percent of the late payment, whichever is less.

Senate Bill No. 2238 requires certain information and standards for contracts between business owners and performing rights societies and limits certain conduct by performing rights societies.

Senate Bill No. 2327 removes gift certificates from application of the Uniform Unclaimed Property Act.

House Bill No. 1113 requires the written consent from the franchiser to use a name or similar trade name as used by the franchise.

House Bill No. 1250 places certain requirements on the transfer of a mobile home storm shelter to the purchaser of a mobile home or to a mobile home park owner.

House Bill No. 1344 provides for a lien by a lessor on abandoned property left in a leased dwelling for the reasonable amount of any storage and moving expenses.

House Bill No. 1424 requires covenants that run with the land to address modification and, for those that do not, allows modification by an 85 percent vote of all property owners subject to the covenant.

Prepared by the North Dakota Legislative Council staff
April 1997

TITLE 48
Public Buildings
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 48. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

House Bill No. 1442 increases the threshold cost for when a contract of a governing body for construction of public improvements must be advertised for bids from $50,000 to $100,000. The bill also provides that if the advertisement is for a public improvement financed by special assessments it need only be published once each week for two weeks in the official newspaper of the political subdivision in which the public improvement is or will be located with the first publication being at least 14 days before bid opening. Under present law, the advertisement must be published in the official newspaper and in a trade publication of general circulation among the contractors, building manufacturers, and dealers in the state with the first publication at least 21 days before the day of the opening of bids.

House Bill No. 1033 increases the cost threshold for when governing bodies must procure plans, drawings, and specifications from a licensed architect or registered professional engineer for the construction of public improvements from $50,000 to $100,000. The bill became effective on March 19, 1997.

House Bill No. 1032 increases the cost threshold for when multiple prime bids for general, electrical, or mechanical portions of a construction project are required from when any individual general, electrical, or mechanical contract is in excess of $50,000 to when any individual general, electrical, or mechanical contract is in excess of $100,000.

House Bill No. 1421 increases the cost threshold for when bonds are required of contractors for public improvements from $50,000 to $100,000. The bill became effective on March 13, 1997.

House Bill No. 1445 provides that if a governing body uses a construction manager on a public improvement, the construction manager must be a licensed contractor. The bill also requires the construction manager awarded a contract for construction of a public improvement to bond the entire cost of the project through a single bond, or through bonds supporting all bid packages and the construction manager's bond for the full amount of the construction manager's services.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 49
Public Utilities
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 49. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

The legislation relating to public utilities may be classified in these subject areas: railroads; energy conversion and transmission facility siting; one-call excavation notice system; and Public Service Commission.

RAILROADS

Senate Bill No. 2037 repeals various statutes relating to the regulation of railroads so as to remove references to authority of the Public Service Commission in areas in which the commission is no longer authorized to regulate due to federal preemption. The bill also provides that if the governing body of a city proposes to establish a speed limit on trains passing through its corporate limits and an agreement cannot be reached with the railway company operating the railroad, the governing body of the city may file with the commission a petition that sets forth the facts and requests the commission's assistance in resolving the matter.

Senate Bill No. 2036 defines the authority of the Public Service Commission with respect to regulation of railroads within the state. The commission, to the extent not inconsistent with federal law, may regulate railroads within the state to the extent railroad activities constitute intrastate commerce. The bill also provides that the Public Service Commission may represent the state's interests in direct negotiation with rail carriers and in proceedings before Congress, federal agencies, and courts.

House Bill No. 1309 replaces the term security officer hired by railroads, station agents, train crews, and track men with the term railroad police officers designated by a railroad to be licensed under the laws of this state for purposes of enforcing criminal laws on railroad property.

ENERGY CONVERSION AND TRANSMISSION FACILITY SITING

Senate Bill No. 2075 provides that if a power emergency exists which necessitates the relocation of a portion of an electric transmission line and associated facilities from the designated route, the owner of the line shall give telephonic notice to the Public Service Commission in advance of the relocation. The line may then be relocated to restore power as soon as practicable. The bill also requires that after the line has been relocated the owner file a request to approve the relocated route with the commission.

ONE-CALL EXCAVATION NOTICE SYSTEM

Senate Bill No. 2328 provides that the one-call notification center must be in operation by March 1, 1998, rather than August 1, 1997.

PUBLIC SERVICE COMMISSION

House Bill No. 1008 provides that the annual salary of a Public Service Commissioner is $55,464 through June 30, 1988, and $57,120 thereafter. The bill becomes effective on July 1, 1997.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 50
Public Welfare
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 50. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

The legislation relating to public welfare may be classified in these subject areas: welfare reform; nursing homes; Department of Human Services programs; early childhood services and foster care; charitable organizations; and miscellaneous.

WELFARE REFORM

House Bill No. 1041 requires counties, effective January 1, 1998, to assume the financial responsibility for the costs of administering certain economic assistance programs and requires the state to assume complete financial responsibility for the grant costs of medical assistance and basic care and contribute additional support of administrative costs for counties with Indian land.

House Bill No. 1226 changes references from the aid to families with dependent children (AFDC) program to the temporary assistance for needy families (TANF) program and authorizes the Department of Human Services to administer the TANF program in accordance with federal law. The department is authorized to submit a state plan that meets the requirements of federal law under Title IV-A of the Social Security Act. The county social service boards are required to administer the TANF program in lieu of the AFDC program beginning July 1, 1997. The bill provides for the establishment of a statewide automated data processing system that contains records with respect to each child support case in which services are being provided by the state agency or a child support agency. A variety of powers are granted to the child support enforcement program, including the power to issue subpoenas and sanction noncompliance, order genetic tests, authority to access a variety of governmental and private records, authority to access records of financial institutions to locate absent parents and their assets. The bill requires all employers in the state to comply with requests from child support enforcement for information about the employment, compensation, and benefits of any employee. The bill provides for the reporting of child support arrearages to credit bureaus and the securing of assets by writs of execution to secure assets to satisfy past due child support. The bill also addresses state and county responsibility for financing the costs of administering TANF, child care assistance, and employment and training.

NURSING HOMES

House Bill No. 1012 extends the date by which the Department of Human Services is required to establish rates for all residents of basic care facilities that receive payments from the state from July 1, 1997, to July 1, 1999, and provides that after June 30, 1999, no agency may make payments to a basic care facility that does not set rates at levels established by the department. Under the bill, the department is required to establish projects designed to meet the service needs of the Alzheimer's and related dementia

population. The bill also provides that the provisions for a community spouse resource allowance applies to a community spouse of an institutionalized spouse.

House Bill No. 1039 authorizes the Department of Human Services to encourage the development of home and community-based services as an alternative to nursing home care by waiving the imputed occupancy level requirements for a nursing home that the department determines to be providing significant home and community-based services in coordination with home and community-based service providers.

House Bill No. 1040 requires the Department of Human Services to provide inflationary increases for nursing home care based on the average in the Data Resources, Inc. nursing home input price index and the increase in the consumer price index for all urban wage earners and clerical workers.

House Bill No. 1335 removes the requirement that the property cost payment mechanism used by the Department of Human Services in its ratesetting system for nursing homes must provide for the recapture of depreciation paid on behalf of medical assistance recipients.

DEPARTMENT OF HUMAN SERVICES PROGRAMS

House Bill No. 1036 requires the Department of Human Services to establish in all human service regions a program to provide out-of-home treatment services for a Medicaid-eligible child with a serious emotional disorder.

House Bill No. 1046 requires the Department of Human Services, in consultation with the Department of Corrections and Rehabilitation, to formulate standards for a risk assessment process to be used for evaluating sexual offenders.

House Bill No. 1048 requires the Department of Human Services to establish qualifications for and the membership of a qualified board under Section 12.1-32-15.

House Bill No. 1470 provides that a premium tax may not be required of a stock or mutual insurance company, nonprofit health service corporation, or health maintenance organization with respect to premiums, capitation payments, policy fees, or service fees collected by a third-party administrator providing administrative services paid by the Department of Human Services for coverage or services provided to a recipient of benefits.

Senate Bill No. 2023 eliminates the requirement that any moneys expended from the traumatic brain injury fund are subject to the approval of the Budget Section of the Legislative Council and provides that any funds spent must be done within the limits of legislative appropriation.

EARLY CHILDHOOD SERVICES AND FOSTER CARE

Senate Bill No. 2055 makes it a Class B misdemeanor for a person to provide early childhood services if the person is required to register as a sexual offender under Section 12.1-32-15 or if the department has denied that person's application for licensure or registration to provide early childhood services following a finding that services are required under Chapter 50-25.1.

Senate Bill No. 2147 requires the Department of Human Services to complete a criminal background investigation of each facility providing foster care for children. The investigation must include the fingerprinting of any individual employed by the facility and any adult living in the facility.

CHARITABLE ORGANIZATIONS

House Bill No. 1248 provides for reporting and licensing requirements for charitable organizations. The bill requires every charitable organization licensed in the state to file an annual report and submit a $10 fee to the Secretary of State.

Senate Bill No. 2307 prohibits the Secretary of State from issuing or renewing a license to a charitable organization if the name of the organization is an entity whose name is not in some manner registered with the Secretary of State as a corporation, limited liability company, trade name, fictitious name of a partnership, limited partnership, or limited liability partnership.

MISCELLANEOUS

House Bill No. 1272 provides that a person may set aside up to $3,000 in a fund without affecting the person's eligibility for Medicaid and that all or a portion of the amount can be set aside for funeral expenses.

House Bill No. 1284 authorizes the Department of Human Services to pay the health insurance premiums, copayments, and deductibles for a person with human immunodeficiency virus infection if the payment of the premiums, copayments, and deductibles is determined to be a cost-effective alternative to the payment of future medical and economic assistance costs for that person and the person is otherwise unable to pay the premiums, copayments, and deductibles.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 51
Sales and Exchange
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 51. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

House Bill No. 1181 provides that a motor vehicle fuel franchise agreement may not require a security deposit except for the purpose of securing against loss of or damage to property. This bill provides that the motor vehicle fuel dealer may satisfy a security deposit requirement by depositing cash or pledging a savings account or its equivalent in a financial institution in the state.

House Bill No. 1213 allows the owner of an automobile, truck, or farm equipment dealership to appoint by trust, will, or other valid written instrument a successor to the owner's dealership interest upon the owner's death or incapacity. The bill requires a manufacturer, wholesaler, or distributor to serve the named successor written notice of a refusal to honor the intended succession within 60 days of its receipt of the notice of intended succession if the manufacturer, wholesaler, or distributor believes that good cause exists to refuse to honor the intended succession. The bill also provides that in determining good cause, the manufacturer, wholesaler, or distributor has the burden of proving that the intended successor is not a person of good moral character or does not meet the franchisor's existing and reasonable standards. The bill provides that good cause does not include the owner's dealership being dualed with another manufacturer's line.

House Bill No. 1225 prohibits a person who sells goods or services (1) from advertising or promising to provide a good or service and paying all or part of any insurance deductible or paying a rebate in an amount equal to all or part of an insurance deductible, if the good or service is paid for by the consumer from the proceeds of an insurance policy that provides coverage for physical damage to automobiles and (2) from knowingly charging an amount for the good or service that exceeds the usual and customary charge by that person for the good or service by an amount equal to or greater than all or part of an insurance deductible paid by that person on behalf of an insured or remitted to an insured by that person as a rebate.

House Bill No. 1274 provides that a buyer has accepted a revolving charge agreement if the buyer has signed the revolving charge agreement, the buyer has used the account issued under a revolving charge agreement, or within 30 days from the date of issuance the buyer has not canceled by written notice a credit card or other access device issued under a revolving charge agreement. The bill allows a seller to change the terms of a revolving charge agreement, including a credit service charge, if the right of amendment has been reserved and the buyer does not furnish written notice to the seller that the buyer does not agree to abide by the changes within 25 days of the effective date of the change as specified in the written notice given to the buyer. The bill also allows the seller or holder of a revolving charge account to collect a late payment or other charge

not to exceed the amount agreed to by the parties in the revolving charge account agreement.

Senate Bill No. 2286 requires a manufacturer who sells an assistive technology device to a consumer to furnish the consumer an express written warranty to preserve and maintain the utility and performance of the assistive technology device. The bill also specifies how a consumer may present a warranty claim for an assistive technology device and specifies remedies for a consumer that purchases or leases an assistive technology device. The bill allows a consumer who purchases or leases an assistive technology device to return the device to the commercial seller or lessor within 30 days after the purchase or lease if the device has not met the needs of the consumer.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 52
Social Security
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 52. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

The legislation relating to Social Security may be classified in three subject areas.

JOB SERVICE NORTH DAKOTA

Senate Bill No. 2017 requires the State Auditor to appoint on a biennial basis an independent audit firm, with extensive expertise in Job Service practices and standards, to complete a performance audit of the divisions of Job Service North Dakota. This report must be presented to the Legislative Council's Legislative Audit and Fiscal Review Committee and to the House and Senate Industry, Business and Labor Committees.

Senate Bill No. 2023 repeals the requirement that the Tax Commissioner, executive director of Job Service North Dakota, and director of the Department of Economic Development and Finance report to the Budget Section of the Legislative Council regarding the new jobs training programs.

Senate Bill No. 2101 allows Job Service North Dakota and the North Dakota National Guard to contract with the State Investment Board or the North Dakota Public Employees Retirement System for employee retirement programs. The bill also allows Job Service to administer the 1961 retirement plan for employees of Job Service.

Senate Bill No. 2114 provides the Job Service North Dakota bureau select and prescribe the duties and powers of its officers and employees in accordance with Chapter 54-44.3, relating to the central personnel system, instead of in accordance with Chapter 54-42, relating to the Merit System Council.

UNEMPLOYMENT COMPENSATION

House Bill No. 1448 creates a new table assigning the maximum yearly number of weeks of unemployment compensation benefits available to an employee of an employer belonging to industry group 161, highway and street construction, except elevated highways. The bill also changes how unemployment compensation employer rates are determined for certain employers belonging to industry group 161.

House Bill No. 1120 provides an individual filing a new claim for unemployment compensation benefits must be advised of tax consequences of receiving unemployment benefits.

House Bill No. 1242 creates a new class of employees providing services to or on behalf of an educational institution which may be disqualified from receiving unemployment compensation benefits.

OLD-AGE AND SURVIVOR INSURANCE

Senate Bill No. 2102 increases the amount of the "primary insurance benefit" under the old-age and survivor insurance law.

Prepared by the North Dakota Legislative Council staff
April 1997

TITLE 53
Sports and Amusements
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 53. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

The legislation relating to sports and amusements may be classified in three areas: games of chance; compulsive gambling; and miscellaneous.

GAMES OF CHANCE

House Bill No. 1003 increases the license fee for a manufacturer of pull tab dispensing devices, pull tabs, or bingo cards from $2,000 to $4,000.

House Bill No. 1167 provides for additional restrictions on games of chance and includes provisions regarding allowable expenses, eligible uses of net proceeds, and enforcement of rules by the Attorney General. The bill expands the authority of the Attorney General to prohibit a person from providing personal or business services to an organization or distributor. The bill also provides a limited exception to an organization's present limit of 25 sites, plus five additional sites if the Attorney General cannot find another organization interested in conducting gaming at a site.

COMPULSIVE GAMBLING

Senate Bill No. 2318 requires the Department of Human Services to contract with qualified treatment service providers for the development and implementation of a program for gambling prevention, awareness, crisis intervention, rehabilitation, and financial counseling and mental health treatment services.

MISCELLANEOUS

House Bill No. 1128 authorizes the Secretary of State as the state athletic commissioner to establish license fees for judges, timekeepers, cornerpersons, knockdown counters, and matchmakers of boxing, kickboxing, and sparring exhibitions. This bill became effective on January 31, 1997.

House Bill No. 1451 removes the requirement that the sheriff of a county or chief police officer of a city is responsible for policing a dance, music festival, or public concert that is held in the county or city.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 54
State Government
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 54. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

The legislation relating to state government may be classified in 21 subject areas.

STATE EMBLEMS, SYMBOLS, AND AWARDS

Senate Bill No. 2150 allows an elected or appointed state official or state employee to place a reproduction of the Great Seal on business calling cards produced for the use of the elected or appointed state official or state employee regardless of whether the cards are purchased by the official or employee or by the state. The bill became effective on March 26, 1997.

Senate Bill No. 2003 provides that unless clear title is otherwise demonstrable, any work of art, artifact, or artistic property located in the state art gallery is deemed to be the property of the North Dakota Museum of Art and is subject to disposition by the North Dakota Museum of Art. The bill also provides that the general fund amount of lease payments for a biennium associated with capital construction projects financed by the Industrial Commission may not exceed the amount equal to a portion of the sales, use, and motor vehicle excise tax collection equal to 10 percent of an amount, determined by multiplying the quotient of one percent divided by the general sales tax rate that was in effect when the taxes were collected, times the net sales, use, and motor vehicle excise tax collections.

LEGISLATIVE ASSEMBLY

House Bill No. 1081 provides that the term of office of a representative is four years, except a representative from an even-numbered district must be elected in 1998 for a term of two years.

Senate Bill No. 2316 provided that if, after adjournment sine die or adjournment subject to a reconvening of the Legislative Assembly, the Governor vetoes any bill passed by the Legislative Assembly, the Governor would be required to call a special session of the Legislative Assembly for the sole purpose of reconsidering the vetoed legislation within 45 days of adjournment. The bill was vetoed by the Governor and the veto was sustained.

Senate Bill No. 2051 increases the daily compensation for members of the Legislative Assembly from $90 to $111 for each calendar day during any organizational, special, or regular legislative session. The bill also increases the monthly compensation for members of the Legislative Assembly from $180 a month to $250 a month. The bill is retroactive in application to January 1, 1997.

Senate Bill No. 2053 increases the monthly lodging reimbursement for members of the Legislative Assembly during organizational, special, or regular legislative sessions from $600 per calendar month to $650 per calendar month. The bill also increases from $600 per month to $650 per month the maximum travel reimbursement that may be paid to a legislator who does not receive reimbursement for lodging and whose place of residence in the legislative district that the member represents is not within the city of Bismarck.

Senate Bill No. 2056 removes the 35-cent per mile maximum reimbursement for travel by common carrier for members of the Legislative Assembly during legislative sessions and allows reimbursement for travel by common carrier at the cost of coach fare to the extent the reimbursement does not exceed 1.5 times the amount the member would be entitled to receive as mileage reimbursement for travel by motor vehicle. The bill also provides that when official travel for state officers or employees is by motor vehicle or airplane owned by the state or by any department or political subdivision of the state, the governmental entities may share expenses when officials or employees of those entities travel in the same motor vehicle or aircraft. The bill is retroactive in application to January 1, 1997.

Senate Bill No. 2213 allows a member of the Legislative Assembly who is assigned a computer to use that computer and its associated equipment and software, upon payment of a computer usage fee established by the Legislative Council, for any use that is not in violation of state law regarding the use of state services or property for political purposes.

Senate Bill No. 2052 provides that no more than three of the five appointees to the Legislative Compensation Commission may represent the same political party. The bill also changes numerous references relating to compensation of various boards, committees, and commissions whereby those sections grant compensation in the amount provided for members of the Legislative Council to provide that compensation is equal to $62.50 per day, the amount currently provided for members of the Legislative Council.

STATE OFFICERS

Senate Bill No. 2187 allows an appointed or elected state official or a state employee to use a state telephone to receive or place a local call for essential purposes to the extent that use does not interfere with the functions of the official's or employee's agency, department, or institution. The bill also allows an appointed or elected state official or state employee who is away from the official's or employee's residence for official state business to make at least one long-distance call per day at state expense if long-distance tolls would apply for the official or employee to call the official's or employee's city of residence. The bill allows state agencies, departments, and institutions to establish guidelines defining reasonable and appropriate use of state telephones for essential personal purposes. The bill became effective on March 25, 1997.

Senate Bill No. 2057 allows the executive officer in charge of a state agency to grant a leave of absence to any full-time employee of that agency who is certified by the American Red Cross as a disaster services volunteer upon the issuance of an order or proclamation declaring a state of disaster or emergency or a declaration of at least a level II disaster by the American Red Cross in this or any other state. The bill provides that the leave of absence must be for the purpose of allowing the employee, upon request

by the American Red Cross, to participate in disaster relief services. The bill also provides that the cumulative leave granted may not exceed five working days during any calendar year and a person on leave is not deemed to be an employee of the state for the purposes of workers' compensation. The bill became effective on April 2, 1997.

House Bill No. 1330 designates the Bank of North Dakota as the state credit card administrator for credit card transactions of state agencies, boards, or commissions. The bill requires the Bank of North Dakota to select a credit card processor or processors to provide credit card services to state agencies, boards, and commissions. The bill allows any state agency, board, or commission that uses a credit card processor other than a credit card processor selected by the Bank of North Dakota to continue using that processor until June 30, 1999, or until transition to the state processor is available with minimal fee or penalty, whichever is earlier.

Senate Bill No. 2138 provides that the Central Personnel Division, rather than the Commissioner of Labor, is required to provide staff services for the State Employees Compensation Commission. The bill also increases from two years to four years the term of office of elected members of the State Employees Compensation Commission. The bill provides that if after election to the commission an employee moves from one type of service to another, that employee may continue serving on the commission until the regular expiration of that employee's term. The bill became effective on March 26, 1997.

Senate Bill No. 2214 replaces the Attorney General with the director of the Office of Management and Budget as a member of the Indigent Civil Legal Services Fund Advisory Committee. The bill also provides that recipients of funds distributed by the advisory committee must comply with the federal Legal Services Corporation Act and that funds distributed may be used to provide legal services to persons unable to afford private counsel in cases relating to medical assistance, family law matters, housing, consumer issues, elder law, and public benefits.

Senate Bill No. 2012 provides that when official travel by a state official or employee is by rail or certificated air taxi commercial operator or other commercial carrier, including regularly scheduled flights by airlines, the amount of reimbursement may be the amount actually and necessarily expended. The bill also requires an official, deputy, assistant, clerk, or other employee, when required to travel by motor vehicle or truck in the performance of official duty, to use a state-owned vehicle whenever possible.

GOVERNOR

House Bill No. 1001 increases the salary of the Governor from $71,042 to $73,176 through June 30, 1998, and to $75,372 thereafter. The bill increases the salary of the Lieutenant Governor from $58,383 to $60,132 through June 30, 1998, and to $61,944 thereafter.

SECRETARY OF STATE

House Bill No. 1235 provides that a search of records conducted by the Secretary of State for which a $5 fee must be collected includes a search of a file document that is active or archived, an archived index, or an index of business name changes to identify specific information to satisfy a request; a search of any record for which written verification of the facts of the search is required; and any search of records when the request for the search is contained in a list compiled by the requester. The bill provides that the Secretary of State may provide at no charge information from publications or

reference materials published or maintained by the Secretary of State and verbal confirmation of any element of information maintained in a computer data base.

House Bill No. 1002 increases the salary of the Secretary of State from $53,843 to $55,464 through June 30, 1998, and to $57,120 thereafter.

STATE AUDITOR

Senate Bill No. 2066 allows an occupational or a professional board to request the State Auditor to audit the board. The bill provides that if the State Auditor agrees to audit the board, the auditor shall deposit the fees charged to the occupational or professional board into the State Auditor operating account. The bill provides that for audits and reviews the State Auditor is authorized to perform or provide by law, the audit or review may be provided for by contract with a private certified or licensed public accountant or other qualified professional. The bill provides that if the State Auditor determines that an audit or review will be done pursuant to contract, the auditor must execute the contract and the audited entity is required to pay the fees of the contractor.

House Bill No. 1110 allows the governing body of a public or nonprofit entity that receives state or federal financial assistance to request the State Auditor to perform an audit for which the entity is required to pay the State Auditor a fee equal to the fair value of the audit. The bill provides that the fee collected must be deposited in the State Auditor operating account. The bill also requires the State Treasurer to credit the State Auditor operating account with the amount of interest earnings attributable to the deposits in that account.

Senate Bill No. 2047 authorizes the Legislative Audit and Fiscal Review Committee to direct the State Auditor to perform audits of political subdivisions or other entities. The bill also requires the State Auditor to audit, at least once every two years, the regional planning councils and soil conservation districts. The bill removes the West River Water Supply District from the list of entities required to be audited every two years. The bill increases from 60 days to 120 days the period during which each regional council has to prepare a final report after the end of each fiscal year.

House Bill No. 1004 increases the salary of the State Auditor from $53,843 to $55,464 through June 30, 1998, and to $57,120 thereafter.

STATE TREASURER

House Bill No. 1005 increases the salary of the State Treasurer from $53,843 to $55,464 through June 30, 1998, and to $57,120 thereafter.

ATTORNEY GENERAL

House Bill No. 1268 provides that the Attorney General may revoke the appointment of a special assistant attorney general only for good cause or upon the request of the entity that selected the special assistant attorney general.

Senate Bill No. 2228 includes within the responsibilities of the Attorney General the requirement to give written opinions to public entities when requested with respect to a written denial of a request for records, a denial of access to a meeting, or other alleged violation of open records or open meetings laws. The bill also provides that the Information Services Division must cooperate with state entities to provide access to computer data base or electronically filed or stored information.

House Bill No. 1003 increases the salary of the Attorney General from $60,768 to $62,592 through June 30, 1998, and to $64,464 thereafter.

EMERGENCY COMMISSION

Senate Bill No. 2023 eliminates Budget Section duties relating to reviewing actions of the office of the budget and approving transfers from the state contingencies appropriation.

Senate Bill No. 2347 allows any board, agency, commission, or officer of the state, subject to the approval of the Emergency Commission, to borrow moneys from the Bank of North Dakota for the purpose of responding to a disaster within the state as declared by the Governor. The bill limits the amount of moneys borrowed to the amount of any estimated federal reimbursement for repair, recovery, or response relating to the disaster, unless the state contingencies appropriation is inadequate to pay the estimated state share of the costs, then moneys may be borrowed up to 100 percent of the costs incurred by the entity. The bill provides that interest payments on the funds borrowed must be paid from funds available to the entity from the state contingencies appropriation as authorized by the Emergency Commission or other funds authorized by the Emergency Commission. The bill also provides that if it appears to the borrower that at the end of the biennium the amount available to repay the amount borrowed plus interest is insufficient to totally repay the Bank of North Dakota, the borrower must request from the Legislative Assembly a deficiency appropriation sufficient for the repayment of the amount borrowed plus interest.

INDUSTRIAL COMMISSION

Senate Bill No. 2398 provides that the Industrial Commission, acting as the farm finance agency, may establish the first-time farmer finance program to encourage first-time farmers to enter and remain in the livelihood of agriculture and to provide first-time farmers a source of financing at favorable rates and terms generally not available to them. The bill provides that financing may not be made to individuals with a net worth of more than $200,000; financing may not be made in an aggregate amount to an individual in excess of $250,000; and financing may only be made for the acquisition of land, livestock, farm improvements, and equipment to be used for farming purposes. The bill allows the Industrial Commission, acting as the farm finance agency, to issue evidences of indebtedness to provide the financing and provides that evidences of indebtedness issued under the first-time farmer finance program, and the interest therefrom, is exempt from any taxes of the state.

Senate Bill No. 2077 authorizes the Industrial Commission, acting as the state housing finance agency, to establish a housing grant program to provide grants to encourage and to promote housing availability for persons of low or moderate income. The bill also provides that the home mortgage finance program may be used to provide second mortgage loans and leasehold mortgage loans on tribal trust or other reservation lands and leasehold mortgage loans that are insured or guaranteed through an affordable housing program.

House Bill No. 1155 updates citations to federal legislation referenced in laws relating to provisions of the federal Housing Act, the federal Higher Education Act, and the federal Agricultural Credit Act.

Senate Bill No. 2111 authorizes the Industrial Commission to fund and refinance student loan bonds when advantageous and authorizes the Industrial Commission to sell the bonds.

Senate Bill No. 2015 establishes the fossil excavation and restoration fund in the state treasury. The bill provides that funds received by the Geological Survey for the excavation and restoration of fossils must be deposited in the fund and that all moneys in the fund are appropriated on a continuing basis to the Geological Survey for the purpose of excavation and restoration of fossils. That portion of the bill became effective on April 10, 1997.

House Bill No. 1133 removes references to the probability of commercialization of marketable lignite product or products by the year 2000 or before with respect to the evaluation of applications for funding from the lignite research fund.

CRIME VICTIMS REPARATIONS

House Bill No. 1162 provides that for purposes of crime victims compensation, the first $25,000 of a life insurance policy are not a collateral source if payable to a dependent beneficiary or to a parent, legal guardian, or conservator of a dependent victim. The bill also includes within the definition of "criminally injurious conduct" an act of terrorism committed outside the United States against a resident of this state. The bill provides that if a resident of this state is a victim of criminally injurious conduct that occurred outside this state, the resident has the same rights with respect to reparations as if the conduct occurred within the state upon a showing that the other jurisdiction in which the conduct occurred does not have crime victims compensation law which covers the bodily injury or death of the victim. The bill also provides that if a resident of this state is a victim of criminally injurious conduct outside this state and the total amount of crime victims compensation benefits payable where the conduct occurred is less than $25,000, the Division of Adult Services may pay additional compensation to the victim up to the difference between $25,000 and the total amount payable where the conduct occurred. The bill provides that in the case of child abuse or sexual molestation of a child, the criminally injurious conduct must be reported to a law enforcement officer within three years after the child reaches the age of majority. The bill provides that a claim for crime victims compensation benefits is presumed closed if the division has not paid any benefit or received a demand for payment of benefits for a period of five years from the date a payment was last made on a claim and a claim for crime victims compensation benefits must be closed 10 years after benefits have last been paid. The bill provides that an award of attorney's fees may not exceed the lesser of 20 percent of the compensation awarded or $1,000.

LIBRARIES

House Bill No. 1035 establishes a North Dakota Library Coordinating Council and authorizes the council to establish regional library cooperatives. The bill specifies the duties and responsibilities of the Library Coordinating Council and provides that the State Librarian is to provide staff services to the Library Coordinating Council, promote and assist libraries in developing and maintaining a computerized, comprehensive, bibliographic statewide data base, and coordinate intralibrary loan activities throughout the state.

FISCAL ADMINISTRATION

House Bill No. 1126 requires the Office of Management and Budget to establish accounting requirements for paying refunds from the general fund in accordance with the central accounting system. The bill eliminates the state refund account and requires each office, agency, or institution that must deposit funds collected in the general fund to pay refunds from the general fund.

House Bill No. 1183 authorizes the director of the Office of Management and Budget to adopt rules to promote the health, safety, and general welfare, to prohibit disturbances and disorderly assemblies, to keep the peace, and to regulate nuisances on the Capitol grounds and in any of the buildings located on the Capitol grounds. The bill provides that the rules may include regulation of public assemblies and accessibility to the buildings and grounds, obstructions, fees, insurance, forms, indemnification by users, and waiver of insurance and indemnity requirements by the director.

House Bill No. 1019 repeals the state revenue sharing distribution formula effective January 1, 1999.

DEPARTMENT OF ECONOMIC DEVELOPMENT AND FINANCE

Senate Bill No. 2019 eliminates Technology Transfer, Inc., effective July 1, 1999.

LEGISLATIVE COUNCIL

House Bill No. 1034 requires the Legislative Council to provide information technology research and staff services to the legislative branch and to study emerging technology to evaluate its impact on the state's system of information technology. The bill requires the Council to perform information systems reviews and audits of information technology systems or applications of executive branch agencies, institutions, and departments, institutions under the control of the state Board of Higher Education, and agencies of the judicial and legislative branches and to monitor the implementation of information technology systems development projects and application development projects. The bill provides that the Information Services Division of the Office of Management and Budget is required to supervise information technology of all executive branch agencies excluding the institutions under the control of the State Board of Higher Education. The bill requires the Information Services Division to consult with the Legislative Council and develop statewide information technology policies, standards, and guidelines. The bill requires each executive branch agency, institution, or department, including the institutions under the control of the State Board of Higher Education, to prepare an information technology strategic plan, subject to approval by the Information Services Division. The bill also requires the director of the Information Services Division and the commissioner of the State Board of Higher Education to meet at least twice each year to plan and coordinate their information technology systems and services and report their findings and recommendations to the Legislative Council before November of each year. The Information Services Division is required to report reoccurring issues of noncompliance with statewide policies and standards to the Legislative Audit and Fiscal Review Committee.

Senate Bill No. 2001 provides that all fees received by the Legislative Council and the Legislative Assembly for providing legislative information services and copies of legislative documents must be deposited in the legislative services fund in the state treasury. The bill provides that the legislative services fund is a revolving fund with an authorized ceiling of $250,000 and the moneys deposited in the fund and earnings on

the fund are appropriated to the Legislative Council for use in improving and enhancing legislative information services and the preparation of legislative documents. The bill also repeals the requirement that each page of all bills introduced must be impressed with an official seal, effective January 1, 1997.

Senate Bill No. 2054 removes the Lieutenant Governor as a member of the Budget Section and as chairman of the Legislative Audit and Fiscal Review Committee. The bill became effective April 2, 1997.

House Bill No. 1385 provides that the membership of the Administrative Rules Committee must include at least one of the members who served during the most recently completed regular session of the Legislative Assembly from each of the standing committees of either the House of Representatives or the Senate. The bill also allows the Legislative Council to appoint or retain legal counsel to appear in, commence, or prosecute an action to protect the official interests of the legislative branch upon a vote of a majority, rather than two-thirds, of the members. The bill became effective April 4, 1997.

House Bill No. 1237 establishes an Electric Industry Competition Committee and requires the Legislative Council to study the impact of competition on the generation, transmission, and distribution of electric energy within the state. The bill became effective on March 24, 1997, and expires on August 1, 2003.

EXERCISE OF JOINT POWERS

Senate Bill No. 2048 would have allowed an agency, department, or institution of the state to enter an agreement with the state of South Dakota to form a bistate authority to jointly exercise any function that the entity is authorized by law to perform. The bill would have required that any agreement entered must be submitted to the Legislative Assembly for approval or rejection at the next regular or special session after the agreement is entered. The Governor vetoed the bill and the veto was sustained.

House Bill No. 1015 allows an agency, department, or institution of the state to enter an agreement with the state of South Dakota to form a bistate authority to jointly exercise any function that the entity is authorized by law to perform. The bill provides that an agreement entered must be submitted to the Legislative Assembly or, if the Legislative Assembly is not in session, to the Legislative Council or a committee designated by the Legislative Council for approval or rejection and may not become effective until approved by the Legislative Assembly or Legislative Council.

House Bill No. 1299 provides that the vote requirement for a question regarding the approval of a county-city home rule charter is a majority of the qualified electors voting on the question.

OFFICE OF MANAGEMENT AND BUDGET

Senate Bill No. 2088 provides a continuing appropriation from the state purchasing operating fund to the Office of Management and Budget for the procurement and maintenance of an inventory of equipment and supplies. The bill requires the director of the Office of Management and Budget to transfer any unobligated balance in the fund, in excess of $125,000, to the state general fund at the end of each fiscal year. The bill also authorizes the Office of Management and Budget to agree with political subdivisions that have organized a purchasing group under a joint powers agreement to cooperatively

purchase certain specific items designated by the Office of Management and Budget if the cooperative purchase will result in a benefit to the state and to the political subdivisions participating in the agreement. The bill removes the requirement that the Office of Management and Budget may delegate purchasing authority only when purchases are necessary due to an agency being able to obtain a lower price with equal quality, the perishability of items, or the location of the items.

House Bill No. 1125 provides that any payment to a state budget unit for a loss under the state fire and tornado fund or for any loss covered by any property and casualty insurance is appropriated to that budget unit to be used solely for the repair, rebuilding, or replacement of the destroyed or damaged building, property, or equipment. The bill authorizes the use of insurance proceeds for purposes other than the repair, rebuilding, or replacement of the destroyed property upon the approval of the Emergency Commission or as appropriated by the Legislative Assembly.

House Bill No. 1013 provides that the position of State Librarian is included in the classified service.

Senate Bill No. 2114 removes the requirement that the State Personnel Board meet at least six times a year and removes the requirement that the director of the Central Personnel Division serve as secretary to the State Personnel Board. The bill authorizes the director of the Central Personnel Division to adopt rules, subject to the approval of the Personnel Board, to ensure compliance with and resolve compliance issues relating to agencies required by state or federal law or rule to be subject to a merit personnel system. The bill authorizes the director of the Central Personnel Division to accept federal funds through grant-aided agencies or directly for the purpose of operating or ensuring operation of a merit personnel system. The bill also provides that all personnel employed by the Department of Human Services, the regional offices of that department, Job Service North Dakota, the Central Personnel Division, the State Department of Health, and other agencies or political subdivisions as may by federal law or rule be required to be subject to a merit system to obtain federal grants-in-aid are covered by the merit system.

Senate Bill No. 2237 defines a "community action agency" and provides that each community action agency must have a board of directors of not less than nine nor more than 51 members. The bill provides that if Congress approves a block grant system to fund social programs, the state may use, subject to legislative appropriation, the block grant funds or in-kind services to provide a level of financial assistance for community action agencies to carry out community action programs through the community services block grants and other federal funding sources. The bill requires that the Office of Intergovernmental Assistance to distribute the federal community services block grant funds received under the federal Community Service Block Grant Act to ensure that at least 90 percent is allocated to community action agencies, the greater of $55,000 or five percent may be allocated for state administrative expenses, and not more than five percent may be allocated for state discretionary projects.

PUBLIC EMPLOYEES RETIREMENT SYSTEM

House Bill No. 1137 changes the normal retirement date for participating members in the Public Employees Retirement System, except for a National Guard security officer or firefighter, to when the member has a combined total of years of service credit and years of age equal to 85 rather than 88. The bill also changes the formula for calculation of

normal retirement benefits to provide that normal retirement benefits for all retirees, except Supreme and district court judges, are determined by multiplying the number of years of service by 1.77 percent rather than 1.74 percent of final average salary. The bill also increases the multiplier from 1.74 percent to 1.77 percent for participants who retired before August 1, 1997. The bill provides that a participant who on July 31, 1997, is receiving disability retirement benefits that are not based upon the benefit multiplier is entitled to receive an increase in benefits equal to five percent of the individual's present benefit with the increased benefits payable beginning August 1, 1997. The bill changes the amount of increase in postretirement benefits from 5.76 percent to three percent of the individual's present benefits. The bill also amends prior service retiree benefits from one percent to five percent of the individual present benefit.

House Bill No. 1140 allows the disclosure, to a member's participating employer, of information and records relating to the retirement benefits of a member of the Public Employees Retirement System or a beneficiary, with the limitation that only information concerning the member's years of service credit and years of age may be disclosed. The bill provides that the information provided to the employer must remain confidential. The bill provides that conversion of sick leave payments may be made beyond 60 days of termination of employment if the member has submitted an approved payment plan to the board. The bill provides that not later than January 1, 1999, all deferred compensation plan assets and income must be held in trust, custodial accounts, or contracts described in the Internal Revenue Code for the exclusive benefit of participants and their beneficiaries. The bill requires the Public Employees Retirement System Board to act as fiduciary of the plan to the extent required by the Internal Revenue Code.

House Bill No. 1138 entitles a Supreme Court or district court judge who, on December 31, 1997, is receiving retirement benefits to receive an increase in benefits equal to two percent of the individual's present benefits with the increase payable beginning January 1, 1998. The bill also provides another two percent increase payable January 1, 1999.

Senate Bill No. 2034 requires the Public Employees Retirement System Board to establish an employee assistance program. The bill also requires each department, board, or agency to obtain employee assistance program services through the board for eligible employees and prohibits departments, boards, and agencies from entering any agreement to obtain employee assistance program services with a third-party provider. Those portions of the bill become effective on July 1, 1999.

House Bill No. 1141 allows the Public Employees Retirement System Board to provide actuarially reduced benefit options for a member and the member's surviving spouse including a 100 percent joint and survivor option, a 50 percent joint and survivor option, or a five-year or 10-year certain option with respect to benefits under the retiree health benefits plan. The bill became effective on April 2, 1997.

Senate Bill No. 2100 authorizes the Public Employees Retirement System Board to allow participation in the pretax benefits program for employees of district health units.

CHILDREN'S SERVICES COORDINATING COMMITTEE

Senate Bill No. 2014 removes the Attorney General, the commissioner of the State Board of Higher Education, the executive director of Job Service North Dakota, the director of the Office of Management and Budget, the chairman of the Governor's

Committee on Children and Youth, and the member at large from the Children's Services Coordinating Committee. The bill also requires that the representative appointed by the Chief Justice of the Supreme Court be a representative of juvenile courts. The bill provides that among the functions of the Children's Services Coordinating Committee is the requirement to distribute funds due to regional or tribal committees within five days of receiving the funds and the responsibility to distribute grant funds. The bill authorizes the Children's Services Coordinating Committee to designate up to 12 organizations to serve as regional and tribal children's services coordinating committees to distribute grants received from the Children's Services Coordinating Committee. The bill specifies the functions of regional or tribal children's services coordinating committees.

OFFICE OF ADMINISTRATIVE HEARINGS

Senate Bill No. 2018 prohibits the Office of Administrative Hearings from holding hearings on the same issue involving the same parties as the original hearing after a judgment has been rendered by a court concerning that issue unless authorized or directed to by that court. The bill also requires the Office of Administrative Hearings to require payment for services rendered by an administrative law judge provided to it by any agency, political subdivision, tribal government, or the judicial branch. The bill removes the prohibition that general fund moneys not be used for payment by state agencies for services rendered by the Office of Administrative Hearings.

Senate Bill No. 2084 provides that the administrative hearings fund be used to pay for salaries, wages, benefits, operating expenses, and equipment for the Office of Administrative Hearings.

TRIBAL-STATE GAMING COMPACTS

Senate Bill No. 2399 provides that a tribal-state gaming compact is a duly executed agreement between the state and a federally recognized Indian tribe as approved by the Secretary of the Department of Interior pursuant to the Indian Gaming Regulatory Act of 1988. The bill provides that all tribal gaming records, including trade secret and proprietary information, submitted to an agency of the state are confidential and are not public records. The bill authorizes the Governor or the Governor's designee to represent the state in any gaming negotiation in which the state is required to participate pursuant to the Indian Gaming Regulatory Act of 1988 by any federally recognized Indian tribe and, on behalf of the state, execute a gaming compact between the state subject to certain conditions. The bill requires the Governor to conduct a public hearing on a proposed compact or amendment before execution of any proposed tribal-state gaming compact or amendment. The bill requires the Governor to forward copies of any compact negotiated to each member of the Legislative Council at least 21 days before the compact is signed if the Legislative Assembly is not in session when negotiations are concluded and to the Legislative Assembly within 21 days before the compact is signed if the Legislative Assembly is in session.

Prepared by the North Dakota Legislative Council staff
April 1997

TITLE 55
State Historical Society and State Parks
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 55. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

House Bill No. 1057 abolishes the State Outdoor Recreation Interagency Council. The council was designed to deal with the distribution of state general fund appropriations that were to be matched with federal outdoor recreation grants-in-aid at the state level; cooperate with the United States or any appropriate agency thereof, particularly in connection with the distribution and use of federal aid funds that the state may become eligible to receive; and to encourage cooperation among public, voluntary, and commercial agencies and organizations.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 57
Taxation
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 57. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

The legislation relating to taxation may be classified in these subject areas: property tax, sales tax, income tax, energy taxes, fuels tax, financial institutions tax, telecommunications tax, and miscellaneous.

PROPERTY TAX

House Bill No. 1298 eliminates an obsolete reference to taxation of personal property of railroads, which has been exempt from taxation since a 1981 federal court decision.

Senate Bill No. 2303 amends the definition of "agricultural property" for purposes of determining the property tax status of property in transition from agricultural property to residential or commercial property. The bill increases from three to four the number of statutory conditions that must exist before property must be moved from agricultural classification to residential or commercial classification. The statutory conditions contained in Section 57-02-01 include considerations of platting, public improvements, moving of topsoil, zoning, adjacent development, location in regard to other agricultural property, and sales price.

House Bill No. 1146 changes the deadline for levying school district property taxes from July 31 to August 15. The bill also permits use of funds from the long-distance learning and educational technology levy to be used for salary of a staff person to supervise use and maintenance of educational technology.

House Bill No. 1280 amends the farm residence and building exemption income limitation for farmers. Existing law limits the exemption to a farmer who "normally" earns 50 percent or more of annual net income from farm activities. The bill alters this requirement so a farmer qualifies for the exemption if the farmer has not received more than 50 percent of annual net income from nonfarm sources for three preceding calendar years.

House Bill No. 1301 amends the farm residence and building exemption to allow a farmer operating a bed and breakfast facility on the farm to retain the farm residence exemption if the farmer would otherwise qualify for the exemption.

House Bill No. 1188 allows the property tax exemption for an agricultural fair association is not lost if the property of the association is used for a purpose other than agricultural fairs.

Senate Bill No. 2070 changes the time when interest accrues on a lien for homestead credit for special assessments from the time the credit is taken to June 1 of the year for

which the installment becomes payable. The bill also shifts the duty from the county director of tax equalization to either the city auditor or township clerk to publish notice of the annual meeting of the city or township board of equalization.

House Bill No. 1069 adjusts the statutory valuation formula to stabilize taxable values for agricultural property. The bill increases the amount of data used in valuing agricultural property from six years to 10 years by increasing the years of data used by one year each year until 10 years of data is used for valuations for taxable year 2000 and thereafter.

House Bill No. 1070 makes permanent the 1995 legislation that eliminated 50 percent of production from irrigated lands for taxable years 1995-97 in calculation of countywide average agricultural property taxable values.

Senate Bill No. 2339 changes the time the property tax exemption applies for a carbon dioxide pipeline from 10 taxable years after commencement of construction to 10 taxable years following initial operation of the pipeline and allows a pipeline to remain exempt if it transports carbon dioxide to an oilfield outside this state.

House Bill No. 1018 allows a county, city, township, or school district eligible for federal funds on a matching basis as a result of a disaster declared by the President of the United States to levy an amount in dollars equal to the required match, in addition to the amount the political subdivision is otherwise permitted to levy if the political subdivision determines its levy under Section 57-15-01.1. An additional levy for matching funds may not increase the total levy more than two percent above the amount levied by the political subdivision in its base year. Amounts levied for matching funds do not become a part of the base year levy of the political subdivision for calculating future levies.

House Bill No. 1341 alters the requirement of 1995 Senate Bill No. 2081 that all exempt property be assessed by the 1999 tax year. The bill requires assessment of exempt property only when the exemption is for a new or expanding business, improvements to property, buildings belonging to institutions of public charity, new single-family residential or townhouse or condominium property, early childhood services property, or pollution abatement improvements.

Senate Bill No. 2141 increases the general tax levy limitation for fire protection districts from 10 mills to 13 mills.

House Bill No. 1240 changes the levy limitation for park district employee pension fund levies from a ratio based on salaries to the total necessary for the annual contribution to the employees' pension fund.

Senate Bill No. 2195 allows political subdivisions, other than school districts, to include amounts required for employee Social Security or retirement programs in the old-age and survivors' insurance 30-mill levy.

House Bill No. 1288 provides that in cases of reassessment of property by petition in which a special assessor is required, the special assessor may be selected by

competitive bidding or a process determined by the board of county commissioners. The bill eliminates the compensation limitation of $80 per day for a special assessor.

House Bill No. 1299 provides that with respect to several property tax levies for which voter approval is required, it is a majority of the votes cast on the question that is required for passage rather than a majority of all votes in the election.

House Bill No. 1292 requires the county treasurer to transfer control of school district reserve funds to the business manager of the school board to which the fund belongs. The bill allows the school board to withdraw up to 50 percent of the amount in the special reserve fund if tax collections in the current budget are insufficient for teacher salaries, heat, light, and fuel.

Senate Bill No. 2260 allows the State Engineer to take action to remove, modify, or destroy manmade structures in or adjacent to a navigable lake and to assess the cost of the action against the owner of the property. Any assessment is to be collected in the same manner as real estate taxes. If the assessment is unpaid after expiration of the period of redemption, a tax deed for the property is to be issued to the state.

House Bill No. 1025 requires payments in lieu of real estate taxes by the State Water Commission for land acquired for the Devils Lake project. The payments must be made to the counties in which the property is located in the same manner as payments are made by the Game and Fish Department.

SALES TAX

House Bill No. 1467 provides for imposition of a sales tax of six cents per million British thermal units on coal for which severance tax has not been imposed, except for coal used for heating buildings or for use in agricultural processing or sugar beet refining plants. Sales and use taxes collected on such coal are to be deposited in the coal development fund and allocated in the same manner as coal severance tax revenues. The bill also provides a coal severance tax reduction for coal burned in a small generating facility in this state or an adjacent state. Such coal is exempt from 50 percent of the tax, subject to 15 percent of the tax that must be allocated to the lignite research fund, and may be exempted from the remaining 35 percent of the tax by action of the city, school district, or county in which the coal is mined.

House Bill No. 1019 repeals the revenue sharing and personal property tax replacement formulas and amends the allocation of sales tax revenue to the state aid distribution fund beginning January 1, 1999. The amended formula will allocate four-tenths of one percentage point of sales tax collections among political subdivisions, rather than the current six-tenths of one percentage point of the sales tax. The revenue will still be deposited in the state aid distribution fund but will be allocated among political subdivisions as a standing and continuing appropriation. The amended formula allocates 53.7 percent of revenues to counties and 46.3 percent to cities in each quarterly period on the basis of population. The bill requires each county to reserve a portion of its allocation for further distribution to or expenditure on behalf of townships, rural fire protection districts, rural ambulance districts, soil conservation districts, county recreation service districts, county hospital districts, the Garrison Diversion Conservancy District, the Southwest Water Authority, and other taxing districts within the

county. The bill requires the township's share of the county allocation to be equal to the percentage of the county share of state aid distribution funds the township received during calendar year 1996. The bill allows the governing boards of the county and township to agree to a different distribution. Cities are required to reserve a portion of their allocations for further distribution to or expenditure on behalf of park districts and other taxing districts within the city, excluding school districts.

Senate Bill No. 2072 imposes a use tax as a companion to the reduced sales tax rates in effect for natural gas from January 1, 1993, to the present. The bill also provides that sales to political subdivisions of another state are exempt from North Dakota sales taxes only if a sale to a North Dakota political subdivision is treated as an exempt sale in that state. The bill eliminates the requirement that a purchaser provide a seller's certificate to the Department of Transportation for transfer of title to a motor vehicle. The bill repeals certain estate tax enforcement provisions.

House Bill No. 1364 provides for taxation of a park model trailer in the same manner as a recreational vehicle, with exemption from the mobile home tax and imposition of motor vehicle excise tax and a $20 annual fee to qualify for the mobile home tax exemption.

INCOME TAX

House Bill No. 1471 provides an income tax credit against individual long-form or short-form liability for qualified care expenses paid by the individual for the care of a qualifying family member. A qualifying family member is an individual with taxable income of $15,000 or less or a married individual with taxable income of $30,000 or less who is either 65 years of age or older or determined to be disabled by the Social Security Administration. Qualified care expenses include payments by the taxpayer for costs to avoid placement of the individual in a long-term care facility. The taxpayer is entitled to a 30 percent credit for qualified expenses if the individual's taxable income does not exceed $25,000. The percentage of qualified expenses is reduced to 20 percent as the taxpayer's income increases to the level of $50,000 and the credit is reduced dollar for dollar for taxable income exceeding $50,000.

Senate Bill No. 2042 provides that the long-term care insurance coverage income tax credit is also available for long-term care insurance coverage for the taxpayer's child.

Senate Bill No. 2344 is a substantial revision of limited liability company laws. The bill contains provisions providing that income tax treatment provided for partnerships applies to limited liability companies that have two or more members. A limited liability company having a single member that is not treated as a corporation for federal income tax purposes is disregarded as a separate entity for state tax purposes.

Senate Bill No. 2089 includes Job Service North Dakota and the Workers Compensation Bureau as claimant agencies eligible for income tax refund setoff against obligors of those agencies.

House Bill No. 1401 amends seed capital investment tax credit provisions to eliminate the requirement of gross sales receipts of less than $2 million in the most recent year and to allow the credit to apply for a business that does not have a principal office in the

state but has a significant operation in North Dakota or more than 25 employees or $250,000 of annual sales in a North Dakota operation.

House Bill No. 1104 provides for allocation of nonresident income and eliminates the requirements that employer withholding returns include total wages, federal income tax deducted, and federal withholding.

House Bill No. 1332 provides that interest on an income tax refund is to be computed in the same manner interest was computed on tax due.

ENERGY TAXES

Senate Bill No. 2371 provides an oil extraction tax exemption for the first 60 months of production from a new well located within the boundaries of an Indian reservation, completed on land held in trust by the United States for an Indian tribe or individual Indian, or on other lands held by an Indian tribe before July 1, 1997.

Senate Bill No. 2155 allows the Tax Commissioner to waive the requirement that a producer file a well production report and allows the commissioner to require a purchaser to file statements or reports by electronic means.

Senate Bill No. 2156 provides that the three-year period to assess additional oil and gas gross production taxes is measured from the due date or filing date of the original return. The bill provides that if a taxpayer amends an oil and gas production tax return, the Tax Commissioner has two years to audit the amended return and assess additional tax. The bill provides that for periods in which the Tax Commissioner has waived the production report filing requirement, the commissioner has three years from the due date or filing date of the return to audit the return and assess additional tax. The time period for assessing additional tax is increased to six years if there is a tax liability change in excess of 25 percent of the amount of liability reported.

House Bill No. 1256 alters the procedure for filing a tax lien for oil and gas gross production and oil extraction taxes. Any judgment creditor or lien claimant filing a judgment or lien prior to tax lien filing by the Tax Commissioner is given priority over the tax lien. The Tax Commissioner is required to index the tax lien in the central notice system and a notice of lien filed by the Tax Commissioner with a county register of deeds before August 1, 1997, may be indexed in the central notice system without changing its original priority as to property in the county where the lien was filed.

House Bill No. 1025 makes permanent the increase from 10 percent to 20 percent of oil extraction tax development fund revenues allocated to the resources trust fund. Before this amendment, the change was made in 1995 and scheduled to expire on July 1, 1997.

Senate Bill No. 2366 establishes a permanent oil tax trust fund. At the end of the 1995-97 biennium, all general fund revenue from oil and gas gross production and oil extraction taxes exceeding $56,300,000 must be transferred to the permanent oil tax trust fund. At the end of any biennium beginning after June 30, 1997, the transfer is to be made on revenue in excess of $62 million. The earnings of the permanent oil tax trust fund are to be transferred to the general fund at the end of each fiscal year. The principal of the oil tax trust fund may not be expended except by a two-thirds vote of the

members elected to each house of the Legislative Assembly. If the distribution formulas for oil and gas gross production and oil extraction taxes are amended in the future, the $62 million amount is to be adjusted by the same percentage increase or decrease as is made to the general fund share of oil tax revenue by the change.

House Bill No. 1467 imposes sales tax on certain coal. See the description of the bill in the sales tax portion of this memorandum.

Senate Bill No. 2196 increases the exclusion for byproducts from a coal gasification facility from 20 percent to 35 percent of gross receipts through December 31, 2000, and thereafter the exclusion reverts to 20 percent of byproducts sales revenues. The bill also provides an exemption from the coal conversion facility gross receipts tax for sales of carbon dioxide to be used in enhanced recovery of oil or natural gas.

House Bill No. 1342 provides for use of moneys in the oil and gas impact grant fund by the Industrial Commission for enforcement of laws and rules relating to geophysical exploration.

FUELS TAX

House Bill No. 1163 makes permanent the three cents per gallon rate increase in motor vehicle fuels and special fuels taxes that was created in 1995 and contingent upon availability of federal highway funds.

Senate Bill No. 2019 reduces the amount per gallon refundable to agricultural fuel users from the motor vehicle fuel excise tax. For the period through 1999, the amount of the refund withheld is reduced from four cents to seven cents per gallon, the amount of the refund withholding to go to the agricultural fuel tax fund is reduced from two cents to one cent per gallon, and four cents per gallon is to be transferred to the agricultural research fund. For the period beginning January 1, 2000, the amount to be withheld from refunds is increased from two cents to six cents per gallon, and the additional four cents withheld is to be deposited in the agricultural research fund.

House Bill No. 1311 is a revision of administrative provisions of the motor vehicle fuels and special fuels tax laws. The bill provides definitions of agricultural purpose and industrial purpose for application of exemptions for those users. The bill alters provisions relating to refund claims, audits, and assessments. The bill provides an exemption for dyed diesel fuel to be used for exempt purposes, which is subject to the two percent special excise tax. The bill allows the Tax Commissioner three years to audit refund claims and assess additional tax if due.

House Bill No. 1286 eliminates the assignment of claims for refund of motor vehicle fuel taxes used for agricultural purposes and requires filing a claim for a refund.

FINANCIAL INSTITUTIONS TAX

Senate Bill No. 2331 is a substantial revision of taxes for financial institutions. Current law taxes financial institutions under three different chapters of law and requires payments of a five percent gross receipts tax to counties and a separate two percent privilege tax to the state. The bill broadens the application of the financial institution tax

to include banks receiving income from North Dakota sources without a place of business in the state and bank and thrift holding companies. The bill eliminates the requirement of filing separate returns with the county and the state and substitutes a tax of seven percent of taxable income, with a minimum tax of $50 per financial institution. The bill contains detailed provisions on what is includable in taxable income and what credits are allowed. The bill requires filing returns on or before April 15 of each year. Two-sevenths of the tax must be paid by April 15 and the remaining tax, which is allocated to counties, must be paid by January 15 of the year after the return is filed. Revenue to counties is to be allocated under a continuing appropriation by February 1 of the year after the return is filed. Allocation among counties is to be made on a pro rata basis based on the county's share of all financial institutions tax revenues for the period 1993-97. The bill incorporates the Multistate Tax Commission formula for apportionment and allocation of income of financial institutions, to make apportionment of income uniform among states using the same approach. The bill allows the Tax Commissioner to audit a financial institution tax return within three years after the due date or filing date of the return.

TELECOMMUNICATIONS TAX

House Bill No. 1068 restructures taxation of the telecommunications industry. The bill eliminates central assessment of telecommunications carrier property, eliminates personal property and real property taxes for telecommunications carriers, and imposes a 2.5 percent tax on the adjusted gross receipts of any telecommunications carrier doing business in the state. The tax applies to receipts of the carrier from all telecommunications service charges minus state, local, and federal taxes. Telecommunications service is defined as transmitting for consideration of any two-way communication, including interstate telecommunications service billed to a station in this state. Taxable telecommunications service charges include charges of a hospital, hotel, motel, or similar place of accommodation selling telecommunications service to the extent it imposes separately stated charges for the service. Amounts collected for or from the universal service fund under federal law are excluded from gross receipts. The bill limits gross receipts taxes imposed upon any customer to $20,000 per calendar year. The customer is allowed to file a claim for refund of any amount exceeding that limitation. The bill allocates all revenue from the gross receipts tax to counties in the proportion that telecommunications property tax and gross receipts tax revenues within the county bears to all such revenues statewide in 1997, to provide each county the same proportion of all telecommunications taxes that it received under previous law. The bill provides a continuing appropriation for allocation to counties to avoid the need for biennial legislative appropriations for distribution of revenues.

MISCELLANEOUS

House Bill No. 1006 increases the salary of the Tax Commissioner from $53,843 in 1996 to $55,464 in 1997 and $57,123 in 1998.

House Bill No. 1107 eliminates the authority of the Tax Commissioner to require taxpayers owing $100,000 or more to file electronic funds transfers for payment of taxes and substitutes a provision that allows the taxpayer to elect to pay taxes by use of electronic funds transfers.

House Bill No. 1105 adds fuels taxes and motor vehicle excise taxes to the taxes the Tax Commissioner may collect from nonresident taxpayers through the services of a collection agency.

Senate Bill No. 2191 provides for indexing in the central notice system of tax liens under the income, sales, use, motor vehicle excise, and fuels taxes. A judgment creditor or lien claimant filing a judgment or lien prior to the tax lien filing by the Tax Commissioner is given priority over the tax lien. A notice of tax lien filed by the Tax Commissioner with a county register of deeds under prior law may be indexed in the central notice system without changing its original priority as to property in the county where the lien was filed.

Senate Bill No. 2114 eliminates the requirement that applicants for the position of state supervisor of assessments must be chosen from a list provided by the Merit System Council to the Tax Commissioner.

Senate Bill No. 2023 repeals the provision allowing the Budget Section of the Legislative Council to request the Tax Commissioner to report on progress under the auditing enhancement program and on settlements of tax assessments.

Senate Bill No. 2071 allows the Tax Commissioner to prescribe alternative methods for signing or verifying returns filed by electronic means having the same validity as an actual signature.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 58
Townships
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 58. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

Senate Bill No. 2067 removes the requirement that the county auditor of a county in which a civil township has dissolved notify the State Auditor of the dissolution of the township.

Prepared by the North Dakota Legislative Council staff
April 1997

TITLE 59
Trusts, Uses, and Powers
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 59. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

House Bill No. 1092 enacts the Uniform Prudent Investor Act, which provides for the duties of and the standard of care for a trustee making investments.

House Bill No. 1276 provides for a trust to distribute as income an increase in the value of a zero coupon bond, an annuity contract before annuitization, a life insurance contract before death of the insured, an interest in a certain common trust fund, an interest in a certain partnership, and any other obligation for payment of money that is payable at a future time.

Prepared by the North Dakota Legislative Council staff
April 1997

TITLE 60
Warehousing and Deposits
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 60. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

Senate Bill No. 2038 repeals North Dakota Century Code Chapter 60-07, which related to the licensing of storage companies as public warehouses.

House Bill No. 1008 increases the public warehouse license fees by $100 annually.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 61
Waters
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 61. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

The legislation relating to waters may be classified in these subject areas: State Water Commission; Devils Lake; Southwest Pipeline Project and Southwest Water Authority; State Engineer; drains; irrigation districts; water districts; and State Water Pollution Control Board.

STATE WATER COMMISSION

House Bill No. 1482 authorizes the State Water Commission to issue $20 million in bonds to finance construction of an outlet from Devils Lake and to finance a statewide water development program. Proceeds of the bond issue are to be used by the State Water Commission to match federal funds available for construction of an outlet from Devils Lake and for developing a comprehensive statewide water development program in the ratio of one to three. However, issuance of bonds for construction of an outlet from Devils Lake is contingent on authorization by the United States of construction of an outlet including plans addressing damage to basic infrastructure such as roads, culverts, and bridges; riverbank erosion; downstream flooding; and increased water treatment costs caused by or resulting from construction of an outlet. Also, issuance of bonds to finance a comprehensive statewide water development program is contingent on Congress enacting legislation for the completion of the Garrison Diversion Unit, which may include the delivery of water to the Northwest Area Water Supply Project; Southwest Pipeline Project; Turtle Lake Irrigation District; Nesson-Valley Irrigation District; Elk Charbonneau-Timber Creek Irrigation District; the Williston Irrigation Project; the Oakes Irrigation Project; other municipal, rural, and industrial water supply projects; delivery of Missouri River water to the Sheyenne River; and an inlet to Devils Lake. The bonds are payable from transfers to be made by the Legislative Assembly from the accumulated and undivided profits of the Bank of North Dakota to the resources trust fund and thereafter appropriated for payment of the bonds or from appropriations from other available revenues, and other revenues available to the State Water Commission for that purpose, including any federal moneys received by the state for the construction of an outlet from Devils Lake to pay bonds issued for that project, or financing a statewide water development program to pay bonds issued for that project. The bill transfers up to $2 million from the accumulated and undivided profits of the Bank of North Dakota to the resources trust fund and appropriates that sum to the State Water Commission for the purpose of paying interest and principal on bonds issued in accordance with the Act. However, the authority of the State Water Commission to issue bonds under the Act expires on July 1, 1999. The bill became effective April 10, 1997.

Senate Bill No. 2362 establishes a drinking water treatment revolving loan fund to coordinate funding for public water systems in North Dakota. The loan fund is to be administered by the State Department of Health. The principal of the grants must be

available in perpetuity for providing financial assistance as allowed under the federal Safe Drinking Water Act. The bill also expands the powers and duties of the State Department of Health to include ensuring that all new public water systems, excluding those that principally provide service to transients, commencing operation after October 1, 1999, demonstrate technical, managerial, and financial capacity to comply with all rules adopted under North Dakota Century Code (NDCC) Chapter 61-28.1 which are in effect or will be in effect, on the date of commencement of operations and developing and implementing a strategy to assist all public water systems in acquiring and maintaining technical, managerial, and financial capability to comply with all rules adopted under Chapter 61-28.1. The bill also establishes an administrative penalty of $1,000 per day for violation in the case of a system serving a population of more than 10,000 and an amount adequate to ensure compliance in the case of a system serving a population of 10,000 or less for willfully violating Chapter 61-28.1 or any regulation or order of the department and an administrative penalty of $1,000 per day for violation in the case of a system serving a population of more than 10,000 and an amount adequate to ensure compliance in the case of a system serving a population of 10,000 or less for violating Chapter 61-28.1 or any regulation or order of the department.

House Bill No. 1025 requires the State Water Commission to make payments in lieu of real estate taxes to counties in which property acquired for the Devils Lake outlet project is located in the same manner and according to the same conditions and procedures as provided in NDCC Chapter 57-02.1 for payments in lieu of real estate taxes by the Game and Fish Department. The bill requires the State Engineer to establish a base line of existing conditions and assess, verify, and quantify potential damage to downstream landowners and property caused by construction of an outlet from Devils Lake to the Sheyenne River. The bill allocates $100,000 from special and other funds that may be available to the State Water Commission to defray the costs of this effort. The bill also requires the State Water Commission to develop and implement a comprehensive statewide water development program. The commission is directed to design the program to serve the long-term water resource needs of the state and its people and to protect the state's current usage of, and the state's claim to, its proper share of Missouri River water. The bill also reallocates the oil extraction tax development fund to provide that 20 percent of the fund is allocated to the resources trust fund. The bill becomes effective July 1, 1997.

Senate Bill No. 2104 deletes the requirement that each member of the State Water Commission must receive at least three days' written notice before any State Water Commission meeting and deletes the provision that notices are not necessary for members who have personally signed an admission of notice and consent to hold a meeting.

Senate Bill No. 2105 exempts office supplies, rather than "supplies," as an expense that must be paid out of the State Water Commission contract fund.

DEVILS LAKE

House Bill No. 1073 declares a water supply for eastern North Dakota as a critical priority.

Senate Bill No. 2239 establishes a Devils Lake Outlet Management Advisory Committee to develop an annual operating plan for the operation of a Devils Lake outlet. The advisory committee consists of the State Engineer or the State Engineer's designee, one member appointed by the Red River Joint Water Resource Board, one member appointed by the Devils Lake Joint Water Resource Board, one county commissioner from Ramsey County appointed by the Ramsey County Board of County Commissioners, one county commissioner from Benson County appointed by the Benson County Board of County Commissioners, a representative of the Spirit Lake Nation appointed by the tribal council of the Spirit Lake Nation, and three members appointed by the Governor. The members appointed by the Governor must represent the interests affected by downstream impacts of operating an outlet from Devils Lake. The annual operating plan must specify the lake elevation at which pumping will take place.

Senate Bill No. 2260 requires persons responsible for buildings, structures, boat docks, debris, or other objects, except a fence or corral, situated in, on the bed of, or adjacent to a lake that has been determined to be navigable by a court (Devils Lake) which are, or imminently likely to be, a menace to life or property or public health or safety, upon notice by the State Engineer, to remove the object. The bill became effective April 3, 1997.

SOUTHWEST PIPELINE PROJECT AND SOUTHWEST WATER AUTHORITY

House Bill No. 1170 authorizes the State Water Commission to provide for the issuance of bonds not to exceed $15 million in accordance with NDCC Chapter 61-02 to finance the cost of the Southwest Pipeline Project. Money derived and received from water user entities for capital costs of the Southwest Pipeline Project may be pledged by the State Water Commission for the repayment of bonds issued for the construction of the Southwest Pipeline Project. The bill became effective April 3, 1997.

House Bill No. 1086 deletes the requirement that the chairman of the board of directors of the Southwest Water Authority must approve expenditures upon vouchers signed by the chairman and requires the expenditures be approved by the board of directors.

STATE ENGINEER

Senate Bill No. 2080 allows the State Engineer to issue temporary permits for dikes, dams, or devices in cases of emergency. The bill also makes a person obstructing or diverting more than 12.5 acre-feet of water, without first securing a permit to do so, liable for all damages proximately caused by the dam, dike, or other device and guilty of a Class B misdemeanor.

DRAINS

House Bill No. 1102 requires a person to obtain a permit to drain sheetwater having a watershed area composed of 80 acres or more. The bill defines sheetwater as shallow water that floods land not normally subject to standing water and allows the State Engineer to adopt rules for temporary permits for emergency drainage.

IRRIGATION DISTRICTS

Senate Bill No. 2265 allows irrigation districts to issue revenue bonds for the acquisition, construction, reconstruction, improvement, betterment, or extension of any

revenue-producing facility and to issue revenue bonds in anticipation of the collection of the revenues of the facility.

WATER DISTRICTS

Senate Bill No. 2079 allows the State Engineer to issue permits to rural water systems for more water than they can beneficially use for the purpose stated in the application if the application is based on reasonable projections of future water needs. The bill also defines a rural water system for purposes of NDCC Chapter 61-04, which governs the appropriation of water, as a water supply system designated to serve regional needs.

Senate Bill No. 2379 provides that the engineer acting for a water district must provide construction administration and observation of work during its progress rather than supervision and inspection as required under present law.

STATE WATER POLLUTION CONTROL BOARD

House Bill No. 1058 expands the membership of the State Water Pollution Control Board from 10 to 13 members and provides that of the members appointed by the Governor, three must be representatives of production agriculture, two must be representatives of manufacturing and processing, one must be a representative of the solid fuels industry, one must be a representative of the fluid and gas fuels industry, one must be a representative of the environmental sciences, and one must be a representative of county or municipal government. The bill also expands the powers of the board to consider and make recommendations regarding any rules or standards relating to water quality or pollution, ground water protection, and the safe drinking of water that are adopted by the State Department of Health. The bill prohibits the department from taking any final action on any rule or standard without consulting the board.

Prepared by the North Dakota Legislative Council staff
April 1997

TITLE 62.1
Weapons
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 62.1. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

Senate Bill No. 2262 provides for reciprocity in the recognition of a concealed weapons licenses issued by another state.

Prepared by the North Dakota Legislative Council staff
April 1997

TITLE 63
Weeds
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 63. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

House Bill No. 1255 provides that a city that has a population in excess of 5,000 and establishes a weed control program pursuant to North Dakota Century Code Section 63-01.1-10.1 is not subject to the requirement that a board member be appointed from within the city limits.

Prepared by the North Dakota Legislative Council staff
April 1997

TITLE 64
Weights, Measures, and Grades
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 64. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

Senate Bill No. 2039 establishes an $8 fee for the testing of hanging scales having a capacity of 50 pounds or less.

Prepared by the North Dakota Legislative Council staff

April 1997

TITLE 65
Workers' Compensation
Summary of Bills Enacted by 1997 Legislative Assembly

This memorandum summarizes 1997 legislation primarily affecting North Dakota Century Code Title 65. Bills primarily affecting other titles may also affect this title, and relevant sections of those bills are summarized in this memorandum.

The legislation relating to workers' compensation may be classified in nine subject areas.

ATTORNEY FEES

House Bill No. 1268 requires the Workers Compensation Bureau to adopt administrative rules setting the costs payable and the maximum allowed costs to compensate an injured employee's attorney. The bill also limits when an injured employee's attorney is eligible to have attorney fees paid by the bureau and provides when attorney fees may exceed the maximum set by law.

House Bill No. 1227 allows the director of the Workers Compensation Bureau to choose not to participate in a claimant's health care malpractice action, waiving the bureau's subrogation interest and obligation to pay attorney fees or costs related to the action.

BUREAU

House Bill No. 1440 establishes a board of directors to oversee the Workers Compensation Bureau and requires an independent audit of the bureau.

House Bill No. 1026 provides a continuing appropriation to the workers' compensation fund for loss adjustment expenses, attorney fees and costs, administrative law judges, court reporters, and other legal expenses. The bill also allows the use of funds available under the Federal Employment Compensation Act liability coverage to satisfy excess workers' compensation liabilities for the Civil Air Patrol workers.

Senate Bill No. 2074 requires the State Auditor to appoint on a biennial basis an independent audit firm, with extensive expertise in workers' compensation practices and standards, to complete a performance audit of the departments of the Workers Compensation Bureau. This report must be presented to the Legislative Council's Legislative Audit and Fiscal Review Committee and to the House and Senate Industry, Business and Labor Committees.

Senate Bill No. 2114 repeals Chapter 54-42 relating to the Merit System Council and removes the requirement that the director of the Workers Compensation Bureau be appointed in accordance with Chapter 54-42.

CLAIMS AND COMPENSATION

Senate Bill No. 2116 changes how workers' compensation death benefits are calculated, how these benefits are distributed to children, and how workers' compensation supplementary benefits are calculated. The bill also allows the bureau to establish a scholarship fund for a spouse or dependent children of deceased workers, increases the

amount of burial expenses paid by the bureau, and repeals the law that allowed the bureau to modify compensation amounts of death benefits.

Senate Bill No. 2125 provides an additional benefit for injured workers when their wage-loss benefits end at the time of retirement. This benefit is based on the length of time the worker was injured.

Senate Bill No. 2334 allows the Workers Compensation Bureau to destroy claim files if the claimant has been deceased for at least 10 years. The bureau may not destroy any claim file that has specifically been requested not to be destroyed.

House Bill No. 1266 revises the starting point for the statute of limitations applicable to filing of workers' compensation claims and provides a penalty to employers that willfully prevent an employee from filing a claim.

House Bill No. 1261 revises the workers' compensation aggravation award procedure followed when a non-work-related injury combines with a work-related injury.

House Bill No. 1264 provides workers' compensation wage-loss benefits will be suspended if an injured employee is confined in a penal institution for more than 72 hours, broadens the wage reporting requirements of injured employees to include any work activities regardless of whether wages were received, and increases the burden of proof for injured workers filing for reinstatement. The bill also allows the bureau to pay preacceptance disability benefits and changes the information required from doctors by requiring a report on the extent of the injured worker's abilities and restrictions.

House Bill No. 1265 increases the maximum amount of the workers' compensation remodeling and adaptation allowances available for the catastrophically injured and the circumstances under which these allowances may be paid.

House Bill No. 1269 creates, amends, relocates, and deletes a variety of definitions applicable to the workers' compensation title. The bill also provides failure of an employee to take a drug or alcohol test may result in forfeiture of workers' compensation benefits and requires the Workers Compensation Bureau to study the wage-loss benefit structure.

House Bill No. 1270 replaces the law addressing informal decisions of the Workers Compensation Bureau with a procedure to be followed in claims for benefits including requests for reconsideration and rehearing.

House Bill No. 1260 changes the definition of "permanent impairment" by no longer considering whether disfigurement diminishes the ability of an employee to obtain employment.

EMPLOYER BENEFITS

Senate Bill No. 2073 repeals the workers' compensation sections relating to the determination of weekly wage for premium purposes for veteran-on-the-job trainees, the requirement county auditors report employment of auditors and clerks to the bureau, and the requirement all public contracts involving labor be reported to the bureau.

Senate Bill No. 2383 provides for using actual wages for computing workers' compensation premiums for townships that hire clerks, assessors, treasurers, or members of the board of supervisors.

FIREFIGHTERS AND LAW ENFORCEMENT OFFICERS

Senate Bill No. 2343 decreases the frequency of which full-time paid firefighters and law enforcement officers must have physical examinations for workers' compensation. The bill also creates a new section regarding the presumption of compensability for certain conditions of full-time paid firefighters and law enforcement officers.

FRAUD

House Bill No. 1263 allows the exchange of information between the workers' compensation fraud unit and the Attorney General's Bureau of Criminal Investigation and other fraud investigatory agencies. The bill also redefines what acts may lead to penalties and provides amnesty periods may not be offered more than once every 12 months.

ROUGHRIDER INDUSTRIES

House Bill No. 1116 requires the Workers Compensation Bureau to establish and administer a system of modified workers' compensation coverage for inmates employed with Roughrider Industries. The bill also requires the bureau to perform a safety audit of the Roughrider Industries work programs and a performance audit of the program of modified workers' compensation coverage.

SAFETY ENGINEER

Senate Bill No. 2110 repeals all but one of the sections of Chapter 65-11, relating to the appointment and duties of a safety engineer, and relocates the remaining section to Chapter 65-03, relating to loss prevention obligations of the Workers Compensation Bureau.

VOCATIONAL REHABILITATION

House Bill No. 1262 changes the due date of a vocational consultant's report, what constitutes failure to make a good-faith work trial or work search, and the method of calculating the amount of partial disability benefits.