Prepared by the North Dakota Legislative Council staff
April 1999

TITLE 1
General Provisions
Summary of Bills Enacted by 1999 Legislative Assembly

There was no legislation enacted that primarily affected North Dakota Century Code Title 1. 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 1999

TITLE 2
Aeronautics
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 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. 2085 repeals the requirement that a person who pilots, maintains, and certifies airworthiness of an aircraft or helicopter must register with the Aeronautics Commission.

Prepared by the North Dakota Legislative Council staff
April 1999

TITLE 3
Agency
Summary of Bills Enacted by 1999 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 1999

TITLE 4
Agriculture
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 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.

APPROPRIATIONS

Senate Bill No. 2009 provides an appropriation for the Agriculture Commissioner. It raises the salary of the Agriculture Commissioner from $55,464 to $58,262 through June 30, 2000, to $59,428 through December 31, 2000, and to $64,569 thereafter. It also creates a Legislative Council interim Crop Harmonization Committee to identify and prioritize crop protection product labeling needs.

House Bill No. 1021 provides an appropriation for the NDSU Extension Service, the Northern Crops Institute, the Upper Great Plains Transportation Institute, the agricultural research centers, and the Agronomy Seed Farm. It allows the NDSU Extension Service to appoint regional dairy diagnostic teams to conduct site visits and provide dairy producers with educational and technical assistance. It also changes the name of the State Board of Agricultural Research to the State Board of Agricultural Research and Education.

Senate Bill No. 2015 contains provisions affecting ethanol subsidies. Whereas current law provides for a production subsidy of up to $750,000 to an ethanol plant that was in operation before July 1, 1995, and which produced fewer than 15,000,000 gallons during the previous fiscal year, this bill changes the requirement of actual production to that of a production capacity in an amount less than 15,000,000 gallons. It specifies that an ethanol plant that was operational before July 1, 1995, and which has a product capacity of 15,000,000 gallons per year, or more, is not eligible for a production subsidy.

House Bill No. 1019 authorizes the Agricultural Products Utilization Commission to require by contract the repayment of a grant, in whole or in part, if the grant recipient does not fulfill the conditions of the grant. It also extends from 5 to 12 the number of years that an ethanol plant may receive state production incentives.

AGRICULTURAL COMMODITIES

House Bill No. 1399 raises the wheat assessment from 8 mills to 10 mills per bushel and provides that the Wheat Commission may use the increase to support its involvement in trade issues throughout the world.

House Bill No. 1078 changes the manner in which penalties are calculated for the late payment of soybean assessments, from 10 percent of the assessment plus interest at the rate of 12 percent per annum to a two percent late payment charge per month.

Senate Bill No. 2292 removes the mandate that the Potato Council impose a penalty for the delinquent payment of assessments and replaces it with authorization to impose a penalty.

Senate Bill No. 2063 adds Stark County to those counties that form dry pea and lentil District 2 and lists by name the counties that form dry pea and lentil District 5.

Senate Bill No. 2398 adds a representative of the North Dakota Dry Edible Bean Seed Growers Association to the State Seed Commission.

Senate Bill No. 2328 authorizes the North Dakota State University Main Research Center to conduct baseline research regarding the production and processing of industrial hemp and other alternative industrial use crops.

AGRICULTURAL CHEMICALS

House Bill No. 1252 authorizes the sale and use of crop protection products having Canadian labels if the Agriculture Commissioner determines that a product having an American label contains substantially similar active ingredients and if its importation and use does not violate federal law. It also authorizes the Agriculture Commissioner to use tolerance data established or obtained in North America for purposes of pursuing special local need exemptions.

House Bill No. 1335 would have made it a Class B misdemeanor for any person to transport any agricultural product or livestock from another country into or through this state unless the product or livestock has a phytosanitary or sanitary certificate addressing its chemical levels. The Governor vetoed the bill and the Legislative Assembly sustained the veto.

House Bill No. 1439 provides that proof of financial responsibility requirements in place for commercial pesticide applicators do not extend to a grazing association and its members if either the association or its members must obtain a commercial pesticide applicator certificate as a condition of a federal grasslands lease, to a person required to be certified in the right-of-way category, or to an applicator who holds a commercial pesticide certificate and is controlling noxious weeds on grassland, land producing tame hay, or other lands not devoted to the production of an annual crop.

Senate Bill No. 2081 provides for the continuation of the agricultural pesticide and pesticide container disposal program through July 31, 2001.

MISCELLANEOUS

House Bill No. 1428 declares industrial hemp to be an oilseed and establishes a licensure procedure for any person intending to grow industrial hemp for commercial purposes

House Bill No. 1200 provides that a person is guilty of a Class A misdemeanor, is subject to court-ordered restitution, and is subject to payment of a civil penalty up to $10,000 for entering land owned by another and, without the express written permission of the owner, remove or attempt to remove a purple coneflower.

House Bill No. 1423 provides that each container of canola seed which is sold, offered for sale, exposed for sale, transported for sale, or held in storage with the intent to sell for planting purposes within this state must bear a label or tag indicating that the seed has been certified by the State Seed Commissioner as meeting state standards or that it has been certified by another state or province having canola certification standards that meet or exceed those of this state.

Senate Bill No. 2425 would have authorized the Industrial Commission to issue bonds for the purpose of providing financing to new and existing livestock production operations and facilities. The Governor vetoed the bill and the Legislative Assembly sustained the veto.

House Bill No. 1044 removes a reference to the twentieth century found in a statutory section governing notices for the consolidation of soil conservation districts.

House Bill No. 1098 provides that money appropriated for boys' and girls' clubwork must be paid to county extension agents in July of each year, rather than being paid out upon execution of a voucher by the county extension agent.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 5
Alcoholic Beverages
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 5. Bills primarily affecting other titles may also affect this title, and those bills are summarized in this memorandum.

Senate Bill No. 2216 prohibits the shipping of alcoholic beverages into this state unless shipped directly to a wholesaler. The person who violates this prohibition the first time is warned, the second time is guilty of a Class A misdemeanor, and the third or subsequent time is guilty of a Class C felony. The bill exempts a case of wine or beer shipped directly to a person 21 years of age or older for personal use.

Senate Bill No. 2240 changes the requirement that a peace officer shall notify an intoxicated person's family of the placement of that person in a hospital, detoxification center, or jail to require the peace officer to make a reasonable effort to notify the intoxicated person's family.

Senate Bill No. 2405 allows local governments to issue an event permit that allows the sale of beer and wine at the event in an area in which persons under 21 years of age are allowed to remain.

House Bill No. 1260 provides for conditions on the cancellation of the agreement between a beer wholesaler and a brewer. The bill prohibits a brewer from requiring a wholesaler to submit confidential information regarding competitive brands as a condition of the continuation of an agreement, places the burden of proof for showing good cause to change an agreement on the brewer, includes the ancillary business of the wholesaler within the compensation a wholesaler may receive from a brewer for wrongful cancellation, and provides for venue and conflict of laws provisions.

House Bill No. 1295 expands the offense of a person under 21 years of age consuming alcoholic beverages to include recent consumption and provides the offense of consumption occurs in the county of consumption or the county of arrest.

Prepared by the North Dakota Legislative Council staff
April 1999

TITLE 6
Banks and Banking
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 6. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to banks and banking may be classified in 12 subject areas.

AGRICULTURE

House Bill No. 1163 changes the family farm loan application requirements; provides the amount of a participation interest purchased by the Bank of North Dakota may not be greater than the lesser of $150,000 or 90 percent of the loan amount; and provides a family farm loan may not be greater than the lesser of $150,000 or 90 percent of the appraised value of the security given for the loan.

Senate Bill No. 2289 extends the North Dakota agricultural mediation service to June 30, 2001.

BANKS

House Bill No. 1100 allows the State Banking Board to issue an order requiring a state bank that is undercapitalized to take corrective action or to cease and desist. The bill also provides the procedure for a state bank that has been issued an order to request a hearing.

Senate Bill No. 2135 changes the amount a banking association may invest in a banking facility, furniture, fixtures, and equipment without approval of the Commissioner of Banking and Financial Institutions or the State Banking Board. The investment amount is changed from 100 percent of the amount of the association's unimpaired capital stock and surplus to 65 percent of the amount of the association's unimpaired capital stock, surplus, and undivided profits.

BANK OF NORTH DAKOTA

Senate Bill No. 2136 provides the manner by which the Bank of North Dakota may sell and lease agricultural property through foreclosure or deed in lieu of foreclosure and distinguishes between real estate with an appraised value of $10,000 and more and real estate with an appraised value of less than $10,000.

Senate Bill No. 2137 repeals the law relating to participation by the Bank of North Dakota in loans to nonfarming small business concerns.

Senate Bill No. 2168 creates a nursing facility alternative loan fund administered by the Bank of North Dakota.

Senate Bill No. 2414 provides the Bank of North Dakota shall adopt rules relating to a North Dakota higher education savings plan.

CHECKS

House Bill No. 1243 provides penalties ranging from infraction to Class C felony for issuing a check or draft without sufficient funds or credit or for issuing a check or draft without an account; requires a notice of dishonor to be mailed before prosecution for improper issuance of a check or draft; and provides a timeline that must be followed in the case of prosecution for improper issuance of a check or draft.

CREDIT UNIONS

House Bill No. 1099 allows the State Credit Union Board to issue an order requiring a credit union that is undercapitalized to take corrective action or to cease and desist. The bill also provides the procedure for a credit union that has been issued an order to request a hearing.

House Bill No. 1374 increases the maximum aggregate unsecured loan that may be made by a credit union to a member from $25,000 to $50,000.

ELECTRONIC FUND TRANSFERS

House Bill No. 1101 provides the operator of any electric funds transfer facility providing for electronic funds transfer in this state may impose a transaction fee if certain requirements are met and provides the name of the owner of an automated teller machine must be shown on each automated teller machine located separate from a financial institution.

Senate Bill No. 2326 provides a person who authorizes an electronic funds transfer without sufficient funds or credit or without an account is subject to the same penalties as a person who issues a check without sufficient funds or credit or without an account.

ENTREPRENEUR LOANS

Senate Bill No. 2242 provides for a beginning entrepreneur loan guarantee program.

HOUSING DEVELOPMENT FUND

House Bill No. 1383 provides for the establishment and operation of a housing development fund, which is to be used to make participation loans in housing development projects in this state.

MUNICIPAL BOND BANK

Senate Bill No. 2106 provides the State Water Commission is a political subdivision for purposes of the drinking water state revolving loan fund program established by chapter 61-28.1.

SCHOOL AID

Senate Bill No. 2042 provides the circumstances under which the Superintendent of Public Instruction is to withhold funds that are due or payable or appropriated to the school district as state school aid and provides how these withheld funds may be accessed by the Municipal Bond Bank or a paying agent for evidences of indebtedness.

TRUST COMPANIES

House Bill No. 1103 requires an officer or employee of a trust company to furnish a bond to the trust company before entering upon official duties.

House Bill No. 1161 establishes procedures governing the voluntary and involuntary dissolution and liquidation of state trust companies by the Commissioner of Banking and Financial Institutions, the State Banking Board, and State Credit Union Board.

House Bill No. 1270 authorizes a state-chartered trust company to engage in any fiduciary activity in which a federally chartered financial institution that is granted fiduciary powers may engage.

MISCELLANEOUS

House Bill No. 1044 removes references to the twentieth century.

Senate Bill No. 2360 repeals the law requiring bonding of the Commissioner of Banking and Financial Institutions and each of the commissioner's deputies.

House Bill No. 1275 provides a bank organization certificate may only be acknowledged by a notary public and not by a clerk of court.

Prepared by the North Dakota Legislative Council staff
April 1999

TITLE 7
Building and Loan Associations
Summary of Bills Enacted by 1999 Legislative Assembly

There was no legislation enacted that primarily affected North Dakota Century Code Title 7. 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 1999

TITLE 8
Carriage
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 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. 1441 creates minimum safety standards for passenger contract carriers transporting fewer than 15 passengers and exempts from these standards carriers used for commuting, carriers transporting school children, ambulances, funeral service vehicles, a person not regularly engaged in the business of transporting passengers for pay, limousines, and taxicab services with a seating capacity of fewer than seven passengers.

Prepared by the North Dakota Legislative Council staff
April 1999

TITLE 9
Contracts and Obligations
Summary of Bills Enacted by 1999 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 1999

TITLE 10
Corporations
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 10. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

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

COOPERATIVES

House Bill No. 1364 provides the articles of association of a cooperative association must include the complete address in this state where the cooperative's principal office is to be located or the name and complete address in this state of the cooperative's registered agent.

CORPORATIONS, ORGANIZATIONS, AND COMPANIES

Senate Bill No. 2271 extensively amends and creates portions of the Business Corporations Act, development corporations law, venture capital corporations law, Professional Organizations Act, Limited Liability Company Act, and the nonprofit corporations law.

NONPROFIT HOSPITALS

House Bill No. 1347 requires a nonprofit corporation doing business as a hospital to notify the Attorney General before closing certain agreements and transactions that affect the hospital's assets and provides the procedure that must be followed if the Attorney General is notified.

SECURITIES

House Bill No. 1144 extensively amends the state law known as the Securities Act of 1951.

House Bill No. 1145 amends House Bill No. 1144 and defines "viatical settlement contract" for purposes of securities registration.

House Bill No. 1154 modifies existing "test the waters" law relating to offers of securities.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 11
Counties
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 11. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation related to counties may be classified in these subject areas: county officers, zoning, and miscellaneous.

COUNTY OFFICERS

House Bill No. 1275 transfers funding for clerk of court services to the state effective January 1, 2001. The bill allows a county to elect to provide clerk of district court services at the county's own expense upon resolution of the Board of County Commissioners and provides that if a county is unable to provide adequate clerk of court services, the Supreme Court must provide those services in a manner it considers appropriate. The bill transfers various clerk of district court services to county registers of deeds or other officials designated by the Board of County Commissioners. The bill also provides that beginning January 1, 2003, the individual designated by the Board of County Commissioners to provide clerk of court services serves as ex officio clerk of district court and the salary and bond for the ex officio clerk of district court must be fixed by a resolution adopted by the Board of County Commissioners. The bill provides that in a county in which the Supreme Court determines that at least two full-time employees are necessary to provide adequate clerk of district court services, the elected clerk of district court and clerk of court staff designated by the Supreme Court shall become employees of the state judicial system if the Board of County Commissioners consents to the transition after consultation with the elected clerk. The bill also provides that in a county in which the Supreme Court determines that one or more, but less than two, full-time employees are necessary to provide clerk of district court services, the elected clerk of district court and the clerk of court staff designated by the Supreme Court shall become employees of the state judicial system. The bill requires each Board of County Commissioners to notify the Supreme Court of its election to provide clerk of district court services, of its consent to the elected clerk of court and designated staff becoming state employees, or of its election to enter an agreement with the Supreme Court to provide funding for clerk of district court services by April 1, 2000. **House Bill No. 1002**, the judicial branch appropriation bill, changed the effective date of the transfer of funding of clerk of district court services from January 1, 2001, to April 1, 2001.

Senate Bill No. 2390 provides that each county must have an elected state's attorney unless the question of appointing the state's attorney is placed before the county electors upon submission to the Board of County Commissioners of a petition signed by 10 percent or more of the total number of qualified electors of the county voting for Governor at the most recent gubernatorial election or upon resolution of the Board of County Commissioners. The bill also makes statutory changes necessary to remove references to the appointment of a county sheriff (Constitution of North Dakota Article VII, Section 8, as amended by the voters on November 3, 1998, requires that the office of sheriff be elected).

House Bill No. 1362 increases the salary of an elected county treasurer, county superintendent of schools, register of deeds, county auditor, and clerk of district court in a county having a population of less than 8,000 from $17,000 to a minimum of $19,000, and in a county having a population of or exceeding 8,000 from $17,500 plus additional compensation of $100 per year for each 1,000 additional population over 8,000 to $19,500 plus additional compensation of $100 per year for each 1,000 additional population over 8,000. The bill increases the salary of an elected sheriff from $19,900 in counties having a population of less than 8,000 to a minimum of $21,900 and from $20,900 in counties having a population exceeding 8,000 plus additional compensation of $100 per year for each 1,000 additional population over 8,000 to $22,900 plus additional compensation of $100 per year for each 1,000 additional population over 8,000. The bill increases the salary of an elected, full-time state's attorney from $45,000 to a minimum of $47,000. The bill does not specify minimum salaries for an appointed auditor, treasurer, superintendent of schools, register of deeds, clerk of district court, or state's attorney. The bill also amends a provision that prohibited a state's attorney from holding any judicial office to provide that a state's attorney may not hold any state or federal judicial office. The provisions of the bill relating to the increases in salaries of county officials becomes effective on January 1, 2000.

House Bill No. 1357 requires an individual, within one year of assuming office, who is elected or appointed to the office of county commissioner, auditor, clerk of district court, register of deeds, or treasurer to attend training based upon a curriculum specific to that office and approved by the statewide association for that office.

House Bill No. 1146 changes the authority of a Board of County Commissioners to prohibit or regulate the running at large of animals to allow a Board of County Commissioners to regulate the confinement and control of dogs, cats, and other household pets if the regulation does not conflict with rules adopted by the State Board of Animal Health.

House Bill No. 1446 authorizes a Board of County Commissioners to appoint one or more of its members as district overseer of highways in unorganized territory.

Senate Bill No. 2231 removes the requirement that county auditors and county treasurers certify abstracts presented to those officers.

Senate Bill No. 2128 changes the fee a county official may charge for compiling statistical information from a minimum of 25 cents and maximum of $1 per hour to a maximum of $25 per hour, excluding the initial hour, for time consumed in compiling the statistical information if the service takes more than one hour to provide. The bill requires the Board of County Commissioners to determine the fee.

House Bill No. 1042 increases the filing fee that the clerk of district court is required to charge for filing a foreign decree or foreign judgment, a petition of subsequent administration, or a trust from $10 to $80. The bill also establishes a $10 fee, or a lesser fee as may be set by the state court administrator, for preparing, certifying, issuing, or transmitting any document. The bill was declared to be an emergency measure and became effective on April 1, 1999.

Senate Bill No. 2280 removes the requirement that a register of deeds continue an abstract of title to real property prepared by the register of deeds whenever a person presents the abstract to the register of deeds for continuation. The bill also removes the requirement that the register of deeds record bottle brands. The bill authorizes a register of deeds to keep records in storage media other than proper books and record the document or instrument by document number.

House Bill No. 1406 provides that all documents presented for recording to a register of deeds after June 30, 2001, must contain a one-inch top, bottom, or side margin on each page of the instrument for the placement of computerized recording labels. The bill provides that an instrument that does not conform to the margin requirement may be recorded upon payment of an additional fee of $2. The bill authorizes a register of deeds to charge a fee of not more than $1 per instrument page for making a noncertified copy of any recorded instrument and to charge a fee of $5 plus $1 for each additional five pages or portion thereof for making a certified copy of any noncentral indexing system filed instrument. The bill removes the requirement that for recording an instrument affecting title to real estate a space of at least four inches by three and one-half inches square must be provided on the front side of each instrument for the register of deeds recording information, and provides that the four-inch by three and one-half-inch square must be provided only on the first or last page of each instrument.

ZONING

Senate Bill No. 2355 expands the prohibition on county zoning regulations and restrictions with respect to farming to include ranching. The bill defines "farming or ranching" as cultivating land for production of agricultural crops or livestock, or raising, feeding, or producing livestock, poultry, milk, or fruit. The bill authorizes a Board of County Commissioners to regulate the nature and scope of concentrated feeding operations permissible in a county, but provides that if a regulation would impose a substantial economic burden on a concentrated feeding operation in existence before the effective date of the regulation, the Board of County Commissioners must declare that the regulation is ineffective with respect to any concentrated feeding operation in existence before the effective date of the regulation. The bill prohibits a Board of County Commissioners from enacting a regulation that would preclude the development of a concentrated feeding operation in the county. The bill provides that a regulation addressing the development of a concentrated feeding operation in the county may set reasonable standards, based on the size of the operation, to govern its location. The bill defines a "concentrated feeding operation" as any livestock feeding, handling, or holding operation, or feed yard, where animals are concentrated in an area that is not normally used for pasture or for growing crops and in which animal waste may accumulate, or in an area where the space per animal unit is less than six hundred square feet. The bill's definition of "concentrated feeding operation" excludes normal wintering operations for cattle.

House Bill No. 1167 requires county zoning to provide for emergency management. The bill defines "emergency management" as a comprehensive integrated system at all levels of government and in the private sector which provides for the development and maintenance of an effective capability to mitigate, prepare for, respond to, and recover from known and unforeseen hazards or situations, caused by an act of nature or man, which may threaten, injure, damage, or destroy lives, property, or our environment. The bill also requires that whenever land, subject to subdivision regulation, abuts any lake, river, or stream and is subdivided, the subdivider must show on the plat or other document containing the subdivision a contour line denoting the present shoreline, water elevation, and the date of the survey. The bill further provides that if any part of a plat or other document lies within the 100-year floodplain or a lake, river, or stream as designated by the state engineer or a federal agency, the mean sea level elevation of that 100-year flood must be denoted on the plat by numerals.

MISCELLANEOUS

House Bill No. 1377 authorizes the board of commissioners of a recreation service district to extend the boundaries of the district to property within or contiguous to the one-quarter mile limit upon a written petition signed by the owner of any property within one-quarter mile of the recreational waters of the area or to the areas of land dedicated to public use for recreational purposes or contiguous to that area and not embraced within the limits of the recreation service

district. The bill requires the recreation board of commissioners to effect the annexation by resolution of the board. The bill provides that if the owners of one-fourth or more of the territory proposed to be annexed protest, the board must stop its pursuit of the annexation.

House Bill No. 1222 provides that a petition to place the question of discontinuing a county job development authority be filed with the county auditor at least 90 days before a countywide election. The bill also specifies the form of the ballot question to be voted on at the election to discontinue a job development authority.

Senate Bill No. 2334 changes references with respect to redemption of property for delinquent taxes to satisfaction of tax liens and changes references with respect to the sale of tax delinquent real estate to foreclosure of the tax lien.

House Bill No. 1044 removes references to the twentieth century in statutory forms and removes antiquated language.

House Bill No. 1035 reconciles references to Title 15 found in other portions of the Century Code.

Senate Bill No. 2130 removes a statutory reference that provides that the cost of an audit of a rural ambulance service district by the State Auditor be paid by the district. The bill also removes a statutory reference regarding the State Auditor instructing a county auditor to institute a suit against a treasurer who fails to pay over money to the county.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 12
Corrections, Parole, and Probation
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 12. Bills primarily affecting other titles may also be summarized in this memorandum to the extent they affect this title.

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

CORRECTIONAL FACILITIES

House Bill No. 1170 provides that the warden must follow the procedures provided in Chapter 54-44.4 when procuring the machinery, tools, and equipment necessary to conduct the work and industries of the State Penitentiary.

House Bill No. 1304 requires correctional facilities to adopt a classification system for inmates to provide for the safety, security, and order of the correctional facility and for the safety and security of the public. The bill also provides that an inmate who is confined to a residential halfway house or similar alternative facility and who participates in a work release program is required to pay room and board.

Senate Bill No. 2133 makes it a Class A felony for a person to manufacture, possess, or deliver a controlled substance within any premises under the control of the Department of Corrections and Rehabilitation or any of its divisions. The bill provides that an inmate in possession of a controlled substance is guilty of a Class B felony; in possession of alcohol or alcoholic beverages is guilty of a Class A misdemeanor; and in possession of tobacco is guilty of a Class B misdemeanor. The bill further provides that an inmate is guilty of a Class B felony if the inmate makes or possesses a shard or weapon not considered a dangerous weapon or firearm and is guilty of a Class A felony for making or possessing ammunition or other object that is considered a dangerous weapon. The bill provides for the warden to authorize correctional officers trained in the use of firearms to carry firearms.

Senate Bill No. 2249 provides that a district judge may authorize an administrator of a correctional facility to establish criteria that would allow offenders sentenced to the correctional facility to obtain sentence reductions for good conduct.

Senate Bill No. 2360 removes the requirement that the superintendent of the North Dakota Youth Correctional Center, the warden, and deputy wardens furnish a $10,000 bond upon taking the oath of office.

CRIMINAL INVESTIGATION RECORDS

Senate Bill No. 2058 requires the Bureau of Criminal Investigation to waive the $20 fee for criminal history record checks if the requestor is a criminal justice agency or a court. The bill also requires the bureau to reduce the fee to three dollars if the requestor is a nonprofit organization that is organized and operated for the exclusive benefit of minors.

PAROLE AND PARDONS

Senate Bill No. 2087 increases from three to six the number of members on the State Parole Board and provides the requirements for attendance at meetings and for making parole decisions.

Senate Bill No. 2185 makes it a Class C felony for an individual who is on parole or probation in another state to be present in this state without permission and not leave the state within seven days after written notification by a law enforcement officer.

MISCELLANEOUS

Senate Bill No. 2298 provides that when an application for a license as a peace officer is denied, the applicant may not reapply for a period of one year from the date of the order of denial.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 12.1
Criminal Code
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 12.1. Bills primarily affecting other titles may also be summarized in this memorandum to the extent they affect this title.

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

SENTENCING

Senate Bill No. 2305 expands the meaning of "communicates in writing" for the purposes of the crime of harassment to include electronic transmissions, electronic mail, facsimile, or other similar means. The bill also permits a court to impose as a condition of probation that a person refrain from any subscription to, access, or use of the Internet.

SEXUAL OFFENSES

Senate Bill No. 2299 provides for the registration requirements for an individual who has pled guilty to or been found guilty of a sexual offense, including juvenile delinquent adjudications of equivalent offenses.

NEW OFFENSES

House Bill No. 1184 makes it a Class A misdemeanor to give false information or a false report to a law enforcement officer. The bill also provides that every applicant for a position as a law enforcement officer must be requested to state in writing whether the applicant has ever pled or been found guilty of a felony.

House Bill No. 1295 adds butane, fluorocarbon, and nitrous oxide to the list of volatile chemicals for which the inhalation of vapors from a listed chemical is prohibited.

House Bill No. 1379 provides that a person is guilty of an offense if the person removes, damages, or obstructs any telephone or telephone line so as to interfere with an emergency telephone call. The offense is a Class C felony if done intentionally and a Class A misdemeanor if done knowingly or recklessly.

Senate Bill No. 2125 changes the penalty from a Class B misdemeanor to an infraction for a person to sell or furnish tobacco products to a minor and for a minor to purchase, possess, smoke, or use tobacco products. The bill also authorizes a city or county to adopt an ordinance or resolution regarding the sale of tobacco to minors and use of tobacco by minors which is more stringent than this bill; however, the penalty for the sale of tobacco to minors and use of tobacco by minors must be a fee of at least $25. The bill became effective on April 9, 1999.

Senate Bill No. 2186 makes it a Class C felony for a person to knowingly cause bodily fluids or excrement to come into contact with law enforcement or correctional facility personnel and a Class A misdemeanor if the person recklessly causes the contact.

Senate Bill No. 2223 increases the penalty for assault from a Class A misdemeanor to a Class C felony if the victim is under the age of 12 years and increases the penalty for aggravated assault from a Class C felony to a Class B felony if the victim is under the age of 12 years or the victim suffers permanent loss or impairment of the function of a bodily member or organ.

Senate Bill No. 2225 makes it a Class C felony for a person to use or attempt to use the personal identifying information of an individual to obtain credit, money, goods, services, or anything else of value without the individual's consent.

VICTIMS AND WITNESSES

Senate Bill No. 2087 provides that if an offender is to make a personal appearance at a parole or pardon hearing, the notice to a victim of an offender's pending parole or pardon hearing must also include a notification of the offender's scheduled appearance.

MISCELLANEOUS

House Bill No. 1016 increases the probation supervision fee from $30 to $36.

Senate Bill No. 2211 changes the definition of "serious bodily injury" to include a bone fracture and removes bone fracture from the definition of "substantial bodily injury."

Senate Bill No. 2255 provides for North Dakota jurisdiction over an individual outside the state who, by use of deception, obtains or deprives, or conspires, solicits, or attempts to obtain, the property of a person within the state.

Senate Bill No. 2362 permits a person to bring an action for civil damages against a person who assists in the commission of a suicide under Section 12.1-16-04. The bill also provides that if the person who assisted in the commission of a suicide is a health care provider, the licensing agency that issues the license or certification may suspend or revoke the provider's license or certification.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 13
Debtor and Creditor Relationship
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 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. 1160 provides a money broker license and a collection agency license are not transferable and provides the licensure requirements in the case of a change of ownership of a money brokerage and a collection agency.

Senate Bill No. 2097 expands the activities that require licensure as a money broker to include providing loans and consumer leases as a form of financing; limits the definition of money broker to exclude people who provide lease financing for that person's property or inventory; and prohibits an unlicensed money broker from taking any type of fee in advance of funding a lease.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 14
Domestic Relations and Persons
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 14. Bills primarily affecting other titles may also be summarized in this memorandum to the extent they affect this title.

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 abortion.

MARRIAGE AND DIVORCE

House Bill No. 1044 removes references to the twentieth century in the marriage license and certificate form.

House Bill No. 1275 removes references to the clerk of court as the person authorized to perform certain duties including solemnizing marriages and issuing marriage licenses and replaces the clerk of court references with the register of deeds or another official designated by the Board of County Commissioners.

CHILD SUPPORT

House Bill No. 1028 provides that for the purpose of the child support guidelines, gross income does not include an employee benefit over which the employee does not have significant influence or control over the nature or amount unless the benefit may be liquidated and the liquidation of that benefit does not result in the employee incurring an income tax penalty.

House Bill No. 1121 designates the clerk of court as the public official responsible for sending notices of child support arrearages and for the administration of income withholding for all cases other than Title IV-D cases.

Senate Bill No. 2039 requires the Department of Human Services, when developing the child support guidelines, to include consideration of extended periods of time a minor child spends with the child's obligor parent.

Senate Bill No. 2073 clarifies the procedure for continuing child support after a child becomes 18 and provides that a child is treated as being in school during summer vacation if the child was enrolled in and attending school and did not graduate from high school at the end of the school period immediately preceding the summer vacation.

Senate Bill No. 2170 provides a procedure for the certification of child support records. The bill provides that the court has continuing jurisdiction to modify a judgment or order for future custody and visitation, provides for voluntary paternity establishment service entities, makes technical and conforming amendments to child support laws and the state disbursement unit, and repeals a section dealing with reimbursement of voluntary support of a child.

Senate Bill No. 2287 provides that interest accrued on unpaid judgments for child support is considered child support and payments received on judgments for child support must first be applied to accrued interest and then to the principal.

Senate Bill No. 2288 provides that due and unpaid child support is not subject to statutes of limitations and may not be discharged in bankruptcy proceedings. This bill became effective April 2, 1999.

PARENT AND CHILD

Senate Bill No. 2040 provides parents with specific rights and duties and provides that courts must include these rights and duties in child visitation orders. The bill also allows courts, as a part of child visitation enforcement proceedings, to use any appropriate remedy that is available to enforce a child support order.

Senate Bill No. 2152 provides for the repeal of the Uniform Child Custody Jurisdiction Act and creates the Uniform Child Custody Jurisdiction and Enforcement Act. The bill provides procedures and the jurisdictional grounds for the interstate enforcement of child custody orders.

Senate Bill No. 2171 implements the federal Adoption and Safe Families Act of 1997, and amends the adoption procedures statute to require that the reports and assessments of adoptive parents include a criminal history record investigation.

Senate Bill No. 2223 changes the penalty from a Class C felony to a Class B felony for the infliction of bodily injury, substantial bodily injury, or serious bodily injury by a parent, guardian, or custodian upon a child under the age of six years.

Senate Bill No. 2388 exempts certain relatives from the adoption investigation and report requirement if the child to be adopted has lived with the relative for at least nine months and no allegations of abuse or neglect have been filed against the relative or any member of the relative's household.

DOMESTIC VIOLENCE

House Bill No. 1077 provides that foreign domestic violence protection orders are enforceable in the state if certain factors are satisfied. The bill also provides that a violation of a foreign protection order that is entitled to full faith and credit is a Class A misdemeanor and a second or subsequent violation is a Class C felony.

House Bill No. 1473 allows domestic violence funding to be spent on sexual assault prevention.

Senate Bill No. 2197 allows the court to order a party who falsely alleges domestic violence to pay court costs and reasonable attorney's fees incurred by the other party in responding to the allegation.

Senate Bill No. 2306 changes from 4 to 12 the number of hours within which a warrantless arrest of a domestic violence offender may be made following the time the officer determines probable cause exists.

DISCRIMINATION

House Bill No. 1043 repeals the current housing discrimination statutes and creates new housing discrimination laws. The bill includes the procedures for filing a housing discrimination claim and the remedies available to a person when a finding of discrimination is made. The bill

designates the Labor Department as the agency responsible for receiving and investigating housing discrimination claims.

ABORTION

Senate Bill No. 2254 makes it a Class AA felony for a person to intentionally cause the death of a living intact fetus while that fetus is partially born. The bill provides that a physician may take the measures necessary to save the life of the mother whose life is endangered if every reasonable precaution is taken to save the fetus's life and the physician certifies in writing the facts upon which the physician relies in making this judgment.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 15
Education
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 15. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

TITLE 15.1

House Bill No. 1034 rewrites those portions of the education title relating to the State Board of Public School Education, the Superintendent of Public Instruction, the Department of Public Instruction, the Compact for Education, the North Dakota Educational Telecommunications Council, schools, school districts, military installation school districts, school boards, county committees, county superintendents, school district reorganizations, students, chemical abuse prevention programs, postsecondary enrollment options, and adult education.

House Bill No. 1035 reconciles statutory references in current law with the newly created education title (Title 15.1).

SCHOOL FINANCE

Senate Bill No. 2162 sets the per student payments at $2,145 and $2,230 for the first and second years of the 1999-2001 biennium. It allows for the joint employment of school district superintendents, allows districts to become nonoperating and send their students to other districts upon the payment of the full cost of education in the receiving districts, provides bonus payments for districts that reorganize, provides supplemental payments for districts experiencing declining enrollment, and provides supplemental per student payments to districts on the basis of average daily membership.

Senate Bill No. 2013 provides an appropriation of $760,774,590 to the Superintendent of Public Instruction, for the operation of the Department of Public Instruction, the State Library, the School for the Blind, and the School for the Deaf. The bill maintains the provision that a school district is liable for the per student cost of special education up to 2.5 times the state average cost per student; and reduces the state responsibility from 100 percent of all remaining costs to 80 percent.

Senate Bill No. 2441 provides bonuses to districts that reorganize, provided at least one of the participating districts is a high school district and that the newly reorganized district consists of at least 800 square miles.

Senate Bill No. 2381 raises the supplemental per student payment for limited English proficient students from $300 to $400.

Senate Bill No. 2146 removes the requirement that the Superintendent of Public Instruction certify to the Office of Management and Budget the state payments to be made to school districts and authorizes the superintendent to make the requisite payments directly to the districts.

Senate Bill No. 2154 provides that the Superintendent of Public Instruction may withhold state special education funds from a district if the determination of a complaint is that the district does not provide a free appropriate public education to a student with special needs.

Senate Bill No. 2257 provides that if a school district ceases to exist, the Superintendent of Public Instruction shall proportionately distribute special education payments for services provided during the final year of the district's operation to the district or districts that enroll students from the dissolved district.

SCHOOLS AND SCHOOL BOARDS

House Bill No. 1490 provides that if a school provides for more school day time than the statutory minimum and if, when aggregated, the additional time amounts to more than 84 hours of additional classroom instruction, the school is exempt from having to make up six hours of instruction time lost as a result of weather-related closure. All other makeup time requires the extension of a normal school day by at least 30 minutes. The bill also directs that a school is to make every effort to provide at least 173 full days of instruction. If doing so would create an undue hardship, the Governor may waive the rescheduling of time lost as a result of weather-related closure or other emergency..

Senate Bill No. 2344 provides that if a school must dismiss early because of weather, the school is responsible for making up only the difference between the time of early dismissal and the conclusion of a full day of classroom instruction.

Senate Bill No. 2068 authorizes a school district consortium to borrow up to $175,000 for instructional technology acquisition provided a majority of the eligible electors residing in the participating consortium sign a petition agreeing to the loan or approve the loan in an election.

Senate Bill No. 2066 raises the amount of a contract for which a school board must seek bids from $8,000 to $25,000 and adds to the list of exceptions from the bidding requirement the purchase of a used motor vehicle intended primarily for the transportation of students.

Senate Bill No. 2235 provides that in contracting for employees' group health plans, a school board must meet statutory bidding requirements. It also provides that no contract for a school district employees' health plan may have a duration in excess of six years.

Senate Bill No. 2335 provides that courses available for dual credit under the postsecondary enrollment options program must be taught by a faculty member of a postsecondary institution.

House Bill No. 1181 requires that each person elected or appointed as a member of the school board or as a business manager of the school district must take the oath of office within ten days of the person's election or appointment. Failure to do so is deemed a refusal to serve.

House Bill No. 1233 provides that each individual who manages the food service operation of a public or nonprofit private entity with which the Superintendent of Public Instruction has contracted under Chapter 15-54 must undergo initial and continuing training regarding the safe handling, preparation, and service of food. The Superintendent of Public Instruction is to develop rules regarding the nature and frequency of the training.

House Bill No. 1349 provides that any student enrolled in grade five or higher may be appointed to a safety patrol. Former law permitted the appointment of a student who is age eleven or older.

HOME EDUCATION

House Bill No. 1064 removes the expiration date from a statute that allows a parent to provide home education to a child with autism, provided that the parent, among other things, files an individualized education program for the child and has the child evaluated by an individualized education program team three times a year.

Senate Bill No. 2199 provides that a child receiving home education may participate in extracurricular activities either under the auspices of the child's school district of residence or under the auspices of an approved nonpubic school.

TEACHERS

House Bill No. 1274 authorizes the Education Standards and Practices Board to grant an interim reciprocal teaching certificate to certain individuals who hold valid teaching licenses or certificates from other states. The bill also requires that the board pursue the reciprocal acceptance of teaching certificates issued by other states and report its progress to the Legislative Council before October 1, 2000.

House Bill No. 1370 provides that the Education Standards and Practices Board may establish certain terms and conditions that would allow an individual to teach with an expired certificate or which would allow certain individuals who have applied for a certificate to teach during the application process.

Senate Bill No. 2074 requires that the Education Standards and Practices Board deny an application for a teaching certificate and immediately revoke an issued teaching certificate if the respective applicant or certificate holder has been found guilty of a sexual offense or a crime against a child.

Senate Bill No. 2075 authorizes the Education Standards and Practices Board to establish application fees. It allows the board to adopt rules governing the issuance of provisional 40-day certificates to initial applicants, pending the outcome of their background checks. The bill allows an individual to have a minor equivalency endorsement issued by the board (current law provides that a high school teacher must have a major or minor in the course area or field in which the individual is teaching).

House Bill No. 1224 requires a school board to address the matter of a teacher's suspension in an executive session, unless the teacher and the school board agree that the matter may be addressed in the presence of other persons or at an open meeting.

Senate Bill No. 2204 provides that a person who holds a teaching certificate and who is first employed by the Superintendent of Public Instruction after January 6, 2001, may elect to participate in the Public Employees Retirement System.

Senate Bill No. 2142 provides that any minor equivalency previously granted by the Superintendent of Public Instruction remains valid.

Senate Bill No. 2410 directs the Education Standards and Practices Board to develop and implement an optional early childhood education teaching certificate.

House Bill No. 1188 replaces statutory references to "teachers' certificates" with "teachers' licenses."

TEACHERS' FUND FOR RETIREMENT

Senate Bill No. 2069 increases Teachers' Fund for Retirement monthly payments by $2 times the number of years of service credit plus $1 times the number of years since retirement.

Senate Bill No. 2070 reduces from five to three the number of years of teaching credit that an individual must have to be eligible for benefits under the Teachers' Fund for Retirement and provides that a teacher may purchase service credit for years of elementary or secondary teaching service in an accredited North Dakota private or parochial school.

Senate Bill No. 2015 provides that all interest and earnings on funds administered by the State Investment Board must be credited to the Teachers' Fund for Retirement.

Senate Bill No. 2282 provides that a retired member of the Teachers' Fund for Retirement may return to teaching for up to one year without losing any benefits if at least 50 percent of the salary earned by the person is placed in a school district's educational foundation or private educational foundation.

BOARD OF UNIVERSITY AND SCHOOL LANDS

Senate Bill No. 2041 raises from $25 million to $40 million the amount of school construction loans that can be made from the coal development trust fund.

House Bill No. 1083 references the continuing appropriation to the Board of University and School Lands for the purpose of paying various management and investment fees and defines investments to include all unclaimed property held in trust, financial securities, surface lands, and minerals for which the board is responsible.

House Bill No. 1084 authorizes the state land commissioner to approve the depreciation of all or a portion of the cost of any permanent improvements placed by a lessee upon land under the control of the Board of University and School Lands. The bill also authorizes the commissioner to cancel any undepreciated cost of a permanent improvement if the lessee fails to offer the minimum bid for the land and the land is not leased at the next auction or if the lessee fails to comply with the conditions of a lease agreement.

Senate Bill No. 2088 requires the Board of University and School Lands to pay an annual fee to the Board of County Commissioners for each county in which the state retains original grant lands. The fee is to be used for the repair, maintenance, and construction of roads and bridges in organized and unorganized townships. The fee is not to exceed five percent of the net revenue generated from the land during the year preceding the payment.

Senate Bill No. 2134 extends from two years to four years the term of the commissioner of University and School Lands.

Senate Bill No. 2360 removes the requirement that the commissioner of University and School Lands and the deputy commissioner furnish bonds in addition to taking an oath of office.

HIGHER EDUCATION

House Bill No. 1003 provides an appropriation of $1,024,800,303 to the North Dakota University System. The bill authorizes a music addition at Bismarck State College and an auditorium renovation at UND-Lake Region. It provides for a critical salary pool, a special needs pool, and participation in the Midwestern Regional Higher Education Compact.

Senate Bill No. 2220 authorizes the construction of a winter sports facility at the University of North Dakota.

Senate Bill No. 2030 authorizes the construction of a bookstore at the University of North Dakota and appropriates $4.5 million from special funds for the purpose.

House Bill No. 1398 provides that the State Board of Higher Education may not authorize the construction of buildings and campus improvements financed by donations without the consent of the Legislative Assembly or if the Legislative Assembly is not in session, without the consent of the Budget Section. If a request for approval is submitted to the Budget Section for approval, each member of the Legislative Assembly must be notified of the meeting at which the request will be considered and must be given an opportunity to present testimony to the Budget Section. The bill also provides that no state agency may significantly change or expand a building construction project beyond that approved by the Legislative Assembly unless the Legislative Assembly or the Budget Section approves the change or expansion.

House Bill No. 1443 changes the name of UND-Lake Region to Lake Region State College and the University of North Dakota - Williston to Williston State College. It provides for the creation of work force training boards at institutions of higher education. The boards are to include representatives from businesses, labor, and industries located within the institution's delivery area. Each institution is to develop an annual business plan for review by its work force training board. The State Board of Higher Education is authorized to establish a revolving loan fund for work force training program startups. The bill contains an $875,000 appropriation to the State Board for Vocational and Technical Education for the purpose of contracting with institutions of higher education assigned primary responsibility for work force training. As passed by the Legislative Assembly, the bill provided for a work force training investment fee through the imposition of an assessment on all employers of 25 or more employees, except elementary and secondary schools. The assessment was vetoed by the Governor after the Legislative Assembly adjourned.

House Bill No. 1165 provides for the deposit of various donations in the special revenue fund of the respective institution of higher education and directs the State Treasurer to immediately transfer any funds so deposited to the institution's account in the Bank of North Dakota.

House Bill No. 1186 removes unnecessary or outdated language relating to the powers of the State Board of Higher Education, updates language pertaining to the tuition assistance grant program, and repeals various sections of Chapter 15-10, including provisions relating to waivers for a limited number of youth correctional center graduates until age 21 (because the center houses residents only through age 18).

Senate Bill No. 2029 removes the requirement that the Budget Section approve the level of tuition charged nonresident students at public institutions of higher education.

Senate Bill No. 2056 replaces the requirement that the State Board of Higher Education meet with the Legislative Council and the Governor on the status of the university system with a requirement that the board report to the Legislative Council and the Governor on the status of the system.

Senate Bill No. 2138 authorizes the Bank of North Dakota to contract with the federal government for the coinsurance of certain guaranteed student loans and changes the reserve fund requirement from two percent to .25 percent of the unpaid balance.

Senate Bill No. 2139 removes language that had the effect of placing borrowing limitations on students seeking loans through the state supplemental loan program.

Senate Bill No. 2314 authorizes the State Board of Higher Education to approve a lease-purchase agreement or modify an existing agreement between the University of North Dakota and a health services provider for the construction and lease of a medical facility to be constructed with private dollars on state land.

House Bill No. 1151 provides that a postsecondary educational institution not operating in this state may voluntarily apply for and be awarded an authorization to operate by the State Board for Vocational and Technical Education. The phrase "authorization to operate" means state board approval to offer students in this state educational services that lead to educational credentials.

MISCELLANEOUS

House Bill No. 1059 raises the daily compensation for members of the Education Factfinding Commission from $50 to $62.50.

Senate Bill No. 2043 sets forth responsibilities for the Information Technology Department and replaces references to the director of the Information Services Division with the chief information officer of the state.

Senate Bill No. 2079 provides that a decision by one or more county committees hearing an annexation petition may be appealed to the State Board of Public School Education. Under former law, the appeal was not permitted if all committees involved in the annexation petition deny the petition.

Senate Bill No. 2202 requires the State Treasurer to allocate mineral royalty revenues to counties quarterly. Ten percent of mineral royalty revenues must be allocated and paid to counties for collections in 2000, 20 percent for collections in 2001, 30 percent for collections in 2002, 40 percent for collections in 2003, and 50 percent for collections thereafter.

Senate Bill No. 2334 continues to provide that property contracted to be sold by the state is subject to taxation from the date of the contract and that the taxes assessed thereon must be collected and enforced in the same manner as taxes against other property. It also extends from three to four years the period of time that must pass after a notice of foreclosure and before a county may acquire rights and interests in the property.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 16.1
Elections
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 16.1. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to elections may be classified in these subject areas: political parties; election officers; campaign contributions; presidential preference contest; ballots; and miscellaneous.

POLITICAL PARTIES

House Bill No. 1284 removes the maximum limit of 18 persons that may comprise a district executive committee.

House Bill No. 1285 provides that each political party in each voting precinct is entitled to elect one precinct committeeman for each 250 votes, or fraction thereof, cast for the party's presidential electors in the precinct in the last presidential election. Previously, a political party was entitled to elect one precinct committeeman for each 250 votes, or major fraction thereof, cast for the party's presidential electors in the precinct at the last presidential election.

ELECTION OFFICERS

House Bill No. 1149 authorizes the members of an election board and poll challengers to challenge the right of anyone to vote whom they know or have reason to believe is not a qualified elector. The bill provides that an election board member or poll challenger may challenge a voter if the individual knows or has reason to believe that the person offering to vote does not meet the age or citizenship requirements, the person offering to vote has never voted in the precinct before and fails to provide reasonable evidence of residency in the precinct, the person offering to vote physically resides outside the precinct, or the person does not meet residency requirements. The bill specifies the contents of an affidavit required of a person whose right to vote has been challenged. The bill authorizes a county auditor, city auditor, or business manager of a school district to challenge the right of a person to vote an absent voter's ballot whom that officer knows or has reason to believe is not a qualified elector.

Senate Bill No. 2232 provides that a student enrolled in a high school or college in this state who has attained the age of 16 is eligible to be appointed as a poll clerk if the student is a United States citizen or will be a citizen at the time of the election at which the student will be serving as a member of the election board, is a resident of the state and has resided in the precinct at least 30 days before the election, and is a student in good standing attending a secondary or higher education institution. The bill provides that a student appointed as a poll clerk may be excused from school attendance during the hours the student is serving as a poll clerk, including training sessions, if the student submits a written request to be absent from school signed and approved by the student's parent or guardian and by the school administrator and a certification from the district party chairman or county auditor stating the hours during which the student will serve. The bill provides that a student excused from school attendance to serve as a poll clerk may not be recorded as being absent on any date for which the excuse is operative and that no more

than two students may serve as poll clerks on an election board. The bill allows an individual who has attained the age of 16 and has graduated from high school or obtained a general education degree from an accredited educational institution to be appointed as a poll clerk if the individual is a citizen and a resident of the precinct.

House Bill No. 1127 expands the authority to establish an absentee ballot precinct to county elections. The bill requires the county auditor to appoint the absentee ballot counting board, which consists of one independent representative to act as the inspector and an equal number of representatives from each political party represented on an election board in the county to act as judges. Previously, the absentee ballot precinct election board consisted of election judges appointed by each district party chairman of the two parties that cast the largest and next to largest number of votes at the last general election, inspectors appointed by the county auditor, and, if the district was contained entirely within an incorporated city, an election inspector appointed by the governing body of the city.

CAMPAIGN CONTRIBUTIONS

Senate Bill No. 2148 includes within the definition of "contribution" funds received by a candidate for public office or a political party or committee which are transferred or signed over to that candidate, party, or committee from another candidate, party, or political committee if the transfer is not made within 30 days of the candidate receiving the money. The bill also increases the threshold amount for which contributions must be included on contribution statements from contributions in excess of $100 to contributions in excess of $200 for candidates, political parties, and political committees. The bill requires a political committee that organizes and registers according to federal law and makes a disbursement in excess of $200 to a nonfederal candidate seeking public office in this state to file a copy of that portion of the committee's federal report detailing the disbursement made to the candidate and a copy of the committee's federal report with the Secretary of State at the time of filing the report with the applicable federal agency. The bill provides that aggregate contributions must reference the date of the most recent contribution and contributions made separately by different persons from joint accounts are considered separate contributions for reporting purposes. The bill also provides that a county and a city, if the city has combined its regular or a special election with a primary, general, or a special county election, may not submit a measure for consideration of the voters after 4:00 p.m. on the 60th day before the election. The bill removes the authority of a Board of County Commissioners to excuse poll clerks from attending mandatory training sessions. The bill authorizes a county canvassing board to stamp and initial properly postmarked absentee ballots that were not considered or counted at the various precincts because the ballots were received too late to be counted or because the ballot was rejected as defective. The bill also authorizes a recount board to stamp and initial properly postmarked absentee ballots that were not considered or counted at the various precincts or by the county canvassing boards.

House Bill No. 1211 requires a candidate filing a write-in candidacy certificate to file a contribution statement complete through the date of filing of the certificate. The bill requires a write-in candidate who is not required to file a certificate of write-in candidacy to file the statement of interest required of a candidate after the candidate's election when the candidate files the required oath of office.

PRESIDENTIAL PREFERENCE CONTEST

Senate Bill No. 2121 provides that in each presidential election year after 2003 a presidential preference contest will be held on the last Tuesday in February. The bill authorizes the Secretary of State to adopt rules relating to the presidential preference contest. The bill also allows each political party entitled to a separate column on the ballot to conduct a presidential

preference caucus on one designated day between the last Tuesday in February and the first Tuesday in March in the year 2000.

BALLOTS

House Bill No. 1124 removes the requirement that the names on a ballot be rotated. The bill also repeals the requirement that ballots be kept in separate piles for each change of position and repiled to be cut so that every other ballot in the pile or printed sheets has names in different positions.

House Bill No. 1181 provides that a candidate nominating petition for any state, district, county, or other political subdivision office must include and have available to each signer at the time of signing the candidate's name, address, and title of the office to which the candidate aspires; the name of the party the candidate represents if the petition is for a party office; and the date of the election at which the candidate is seeking nomination or election. The bill requires electors signing nomination petitions to include the elector's name, the date of signing, the elector's complete residential address, rural route, or general delivery, and the name of the city or the city's corresponding zip code. The bill provides that an incomplete signature or incomplete accompanying information invalidates a signature. The bill provides that a signature that is not accompanied by a complete date is not invalid if the signature is preceded and followed by a signature that is accompanied by a complete date.

MISCELLANEOUS

Senate Bill No. 2130 provides that if the costs of an election contest are required to be paid by the state, the Office of Management and Budget shall issue a warrant upon the State Treasurer to pay the costs. The law previously required the State Auditor to issue a warrant to pay election contest costs.

House Bill No. 1044 removes references to the twentieth century in statutory forms and removes antiquated and gender specific language.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 18
Fires
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 18. Bills primarily affecting other titles may also affect this title, and those bills may be summarized in this memorandum.

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

FIREFIGHTERS RELIEF ASSOCIATION

House Bill No. 1201 expands participation in the firefighters relief association to include rural fire protection districts.

NORTH DAKOTA FIREMEN'S ASSOCIATION

House Bill No. 1366 provides a fire protection district may join the North Dakota firemen's association; provides how many fire schools must be held each year and how these schools must be held; decreases the duties of the secretary of the association; and provides an additional requirement to be eligible for association benefits.

ALTERNATIVE FIREFIGHTERS RELIEF ASSOCIATION PLAN

Senate Bill No. 2130 provides that if an audit report of a firefighters relief association discloses unauthorized use of money, it is the Office of Management and Budget rather than the State Auditor who is to refuse to issue any warrants for the benefit of the fire department or association.

Senate Bill No. 2347 provides a firefighters relief association may adopt an optional monthly service pension plan for members of the association and may implement postretirement adjustments to pensioners and beneficiaries under the optional plan.

FIRE MARSHAL DEPARTMENT

Senate Bill No. 2360 removes the requirement for bonding of the State Fire Marshal and each of the marshal's deputies.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 19
Food, Drugs, Oils, and Compounds
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 19. Bills primarily affecting other titles may also affect this title, and those bills may be summarized in this memorandum.

Senate Bill No. 2353 allows a producer of alcohol-blended gasoline to provide a label promoting the benefits of alcohol-blended gasoline to the retailer.

House Bill No. 1337 provides for the regulation of farmed elk. In particular, the bill prohibits State Department of Health inspection of meat processing plants for farmed elk if the processing plants are inspected under the Federal Meat Inspection Act.

Senate Bill No. 2270 requires a retailer to label fresh beef, lamb, and pork as to the country of origin. The bill does not require a restaurant, cafeteria, prepared food service establishment, or mobile food unit to label meat.

Senate Bill No. 2176 standardizes the definition of a practitioner for the purposes of prescribing drugs, adds butorphanol and sibutramine to the list of Schedule IV depressants, allows an intern or technician to reduce an oral prescription to writing, and allows certain facsimiles to serve as an original prescription.

Senate Bill No. 2349 prohibits exemplary (punitive) damages in a civil action against the manufacturer or seller of a medical product or device approved by or subject to approval by the Food and Drug Administration unless certain exceptions are met.

Senate Bill No. 2280 repeals the requirement that the register of deeds record a description of names, brands, trademarks, and labels for marking containers of liquids and repeals the penalty for the unauthorized filling of these containers.

Senate Bill No. 2371 creates a presumption of forfeiture for money if the state offers a reasonable basis to believe, based on certain circumstances, that there is a substantial connection between the property and a drug offense.

Senate Bill No. 2009 changes the fee for registering a pesticide for sale in this state from $300 to $350 per product.

House Bill No. 1016 defines a prior offense for the purpose of a mandatory sentence for a drug offense as a finding of guilt or plea occurring before the date of the commission of the present offense in the charging instrument.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 20.1
Game, Fish, Predators, and Boating
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 20.1. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

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

LICENSES AND PERMITS

Senate Bill No. 2261 allows nonresidents, upon payment of the fee requirement for a nonresident big game license, to participate on the same basis as residents in a lottery for deer licenses remaining after the second lottery for residents.

House Bill No. 1223 allows a person, that person's spouse, and their children who have a gratis or preferential landowner license to hunt deer to hunt together on land described in any of the affidavits making them eligible for the license. Family members hunting together under this provision must hunt within the same unit within which the land described in the affidavit making them eligible for the licenses located.

Senate Bill No. 2089 establishes a nonresident spring white goose season and changes the requirement for obtaining a gratis or preferential landowner big game hunting license from filing an affidavit to filing a signed application. The bill became effective March 3, 1999.

House Bill No. 1459 revises the nonresident waterfowl hunting season to provide that a nonresident may hunt waterfowl for any period of seven consecutive days in addition to any period of 14 consecutive days or any two periods of seven consecutive days each. The bill also provides that a license authorizing the 14-day hunting period allows hunting in a specified waterfowl hunting zone while a license authorizing one 7-day hunting period allows hunting statewide. A license authorizing two 7-day hunting periods allows hunting in a specified zone during each period.

Senate Bill No. 2170 requires that the Social Security number of an applicant for any license or permit issued under Chapter 20.1-03 must be recorded on the application unless the applicant is a foreign national to whom no Social Security number has been issued.

Senate Bill No. 2350 establishes a certified guide license. The requirements for a certified guide license are that an individual provide the director of the Game and Fish Department proof that the individual is covered by general liability insurance against loss or expense due to accident or injury from guiding or outfitting services, at a minimum of $100,000 per individual and $300,000 per incident; proof that the individual is currently certified in adult cardiopulmonary resuscitation or its equivalent; and proof that the individual is currently certified in standard first aid or its equivalent.

Senate Bill No. 2091 requires county auditors to remit all game and fish license fees to the Game and Fish Department rather than retain a commission. The bill contains a continuing appropriation to allow the Game and Fish Department to then send county auditors compensation due them for the issuance of licenses.

GAME AND FISH DEPARTMENT

House Bill No. 1411 requires the Game and Fish Department to publish a brochure describing areas funded from the Game and Fish Department private land habitat and access improvement fund which are open to public access in this state as opposed to selling a booklet describing these lands.

Senate Bill No. 2345 provides that individuals medically qualified to draw blood rather than only physicians, qualified technicians, chemists, and registered nurses may draw blood for purposes of determining hunting or boating under the influence.

House Bill No. 1275 requires records relating to methods or devices required to perform tests for determining hunting or boating under the influence to be filed with the register of deeds or official designated by the board of county commissioners rather than with the clerk of district court.

Senate Bill No. 2019 appropriates $30,506,036 to defray the expenses of the Game and Fish Department and requires the department to spend moneys in the game and fish fund within the limits of legislation appropriations only to the extent the balance of the game and fish fund is not reduced below $10 million unless otherwise authorized by the Budget Section. This bill becomes effective July 1, 1999.

Senate Bill No. 2360 deletes the bond requirements for the deputy director and chief game warden of the Game and Fish Department.

MISCELLANEOUS

Senate Bill No. 2373 provides that the big game hunting season for elk, moose, and big horn sheep begins one-half hour before sunrise rather than 12:00 noon central standard time on any designated Friday as established by gubernatorial proclamation.

House Bill No. 1195 extends the muzzleloading deer hunting season from one week to nine and one-half consecutive days.

Senate Bill No. 2090 repeals Section 20.1-04-10, which required that an automatic or repeating shotgun authorized for the taking of game birds could not be capable of holding more than three shells and that a one-piece metal or wooden plug could be used to reduce the shell-holding capacity if the plug was incapable of being removed through the loading end of the shotgun. This bill became effective March 4, 1999.

House Bill No. 1327 deletes the requirement that the owner of a fishhouse obtain a license from the director of the Game and Fish Department for the fishhouse.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 21
Governmental Finance
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 21. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

Senate Bill No. 2067 validates bonds issued by any public body before July 1, 1999.

House Bill No. 1168 provides that letters of credit issued by the Bank of North Dakota must be secured by collateral when issued as a pledge of security in place of a personal or surety bond. The bill provides that a security interest is created and attaches when the Bank of North Dakota issues such a letter of credit. The bill requires a written agreement between the Bank of North Dakota and the board of directors of a financial institution seeking such a letter of credit from the Bank of North Dakota.

Senate Bill No. 2042 allows withdrawal from a school district bond sinking fund of an amount equal to any amount withheld by the Superintendent of Public Instruction from that school district's state school district aid to pay the Municipal Bond Bank or a paying agent for unpaid principal or interest on evidences of indebtedness of the school district.

House Bill No. 1044 eliminated statutory references to twentieth century dates in certain statutory forms, including a provision in Title 21 relating to registration of warrants.

House Bill No. 1259 allows the director of the Workers Compensation Bureau, with approval of the Workers Compensation board of directors, to appoint a designee to attend State Investment Board meetings, participate, and vote when the director is unable to attend.

Senate Bill No. 2334 eliminated tax sales for unpaid property taxes and substitutes "satisfaction of tax lien" for the term "tax sale" in a definition of "uncollected taxes" in Chapter 21-02.

Prepared by the North Dakota Legislative Council staff
April 1999

TITLE 22
Guaranty, Indemnity, and Suretyship
Summary of Bills Enacted by 1999 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 1999

TITLE 23
Health and Safety
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 23. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to health and safety may be classified in 10 subject areas.

BOARD OF MEDICAL EXAMINERS

House Bill No. 1157 provides an investigative panel of the Board of Medical Examiners and not the commission on medical competency subpoenas peer review records.

DISEASES

Senate Bill No. 2186 provides the circumstances under which results of any testing of an imprisoned individual for any reportable disease must be released.

Senate Bill No. 2253 provides the reporting requirements for a person treating an individual who is infected with the human immunodeficiency virus if the individual is in the physical custody of a correctional facility.

House Bill No. 1185 repeals existing rabies control law and creates new rabies control law.

FIREWORKS

Senate Bill No. 2100 removes the requirement that sellers of fireworks be assessed local personal property taxes on fireworks merchandise.

Senate Bill No. 2437 provides fireworks may be sold from December 26, 1999, through January 1, 2000.

HOSPITAL DISTRICTS

Senate Bill No. 2130 removes the requirement that the State Auditor examine records of the secretary treasurer of each hospital district.

IMMUNIZATIONS

Senate Bill No. 2126 provides a child may not be admitted to school, day care, or home-based instruction unless certification is provided that the child is immunized against hepatitis B and haemophilus influenza type b (Hib) and expands the circumstances under which a child is exempt from the certification requirement to include a parent's or guardian's religious, philosophical, or moral beliefs in opposition to such immunization.

Senate Bill No. 2143 provides a certification of inoculation for a child receiving home-based instruction must be filed with the public school district in which the child resides rather than with the Superintendent of Public Instruction.

LONG-TERM CARE BED CAPACITY MORATORIUM

Senate Bill No. 2196 extends the moratorium on the expansion on long-term care bed capacity and basic care bed capacity from July 31, 1999, to July 31, 2001, and provides existing long-term care beds released by a facility which are not immediately transferred to another facility may not be banked for future transfer to another facility.

POLLUTANTS AND WASTE

Senate Bill No. 2178 expands the types of willful air pollution acts that are prohibited; changes the maximum penalty for willful violation to a fine of not more than $20,000 per day per violation and imprisonment for not more than two years; provides violations of the air pollution law which are criminal negligence may be subject to a fine of not more than $10,000 per day per violation and not more than six months' imprisonment; and provides the Department of Health may maintain an action in the name of the state to enjoin any threatened or continuing violation of air pollution law.

House Bill No. 1404 extends the expiration date of the law relating to petroleum release remediation to July 31, 2009; provides the amount of the registration free for an owner or operator of a petroleum tank; provides who may be reimbursed for petroleum tank corrective actions; and provides who may be eligible for third-party damages.

Senate Bill No. 2365 provides for the regulation of odors.

Senate Bill No. 2366 provides that for purposes of the Solid Waste Management and Land Protection Act the term "solid waste" does not include agricultural waste, including manures and crop residues, returned to the soil as fertilizer or soil conditioners.

PUBLIC HEALTH UNITS

Senate Bill No. 2045 provides all land in the state must be in a public health unit and consolidates and unifies public health law.

Senate Bill No. 2166 provides law governing disclosure of confidential or protected health information by a public health authority.

TRAUMATIC HEAD INJURY

Senate Bill No. 2109 repeals the traumatic head injury registry.

MISCELLANEOUS

House Bill No. 1038 corrects outdated references to the health services branch of the Department of Health.

House Bill No. 1143 provides the circumstances under which a medical provider may charge a patient for a copy of a medical record and the amount that may be charged and provides the circumstances under which a medical provider shall provide a patient a free copy of a medical record.

House Bill No. 1182 expands the class of individuals who may report to the Department of Transportation regarding the incapacity of an individual to safely operate a motor vehicle, from only physicians to include any medical professionals.

House Bill No. 1275 provides duties previously performed by the clerk of court are now provided by the register of deeds or other official designated by the Board of County Commissioners.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 24

Highways, Bridges, and Ferries

Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 24. Bills primarily affecting other titles may also affect this title, and those bills may be summarized in this memorandum.

House Bill No. 1128 allows for the purchase and lease of motor vehicle-related equipment by the central vehicle management system. In addition, the bill allows the director of the Department of Transportation and a state employee who has a disability requiring a specially equipped vehicle to enter an agreement that allows a mileage rate increased by the actual cost per mile caused by the special equipment.

House Bill No. 1170 removes the Office of Management and Budget from the process for the Department of Transportation to construct, rent, or purchase land and buildings.

House Bill No. 1310 creates stream-crossing standards that must be prepared by the Department of Transportation and the state engineer and followed in the construction of a highway. If the standards are followed, the highway builder is not liable for damages caused by water detained by the highway. The bill allows a majority of landowners or the governing body in the area affected to petition the state engineer to determine what is required to meet the stream-crossing standards.

House Bill No. 1446 allows the Board of County Commissioners to appoint one or more of its members as a district overseer of highways.

Senate Bill No. 2160 removes the requirement that the Department of Transportation create and adopt a construction program for the ensuing construction season, and removes the review and approval of the annual programs for each major road system.

Senate Bill No. 2267 creates a special road fund from 40 percent of the interest on the highway fund for distribution by a special road committee to recreational, tourist, and historical areas for road construction and maintenance.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 25

Mental and Physical Illness or Disability
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 25. Bills primarily affecting other titles may also be summarized in this memorandum to the extent they affect this title.

The legislation relating to mental and physical illness or disability may be classified under treatment facilities and protection and advocacy.

TREATMENT FACILITIES

Senate Bill No. 2012 places a moratorium on the expansion of a residential treatment center for additional children bed capacity. The bill also provides criteria for the screening and admission to a public treatment facility.

Senate Bill No. 2130 repeals a section relating to the collection of clothing account at the School for the Deaf.

Senate Bill No. 2147 removes the position of performance improvement coordinator from the composition of the governing body of the State Hospital.

Senate Bill No. 2360 removes the requirement that the superintendents of the State Hospital, the Developmental Center at Westwood Park, Grafton, the School for the Blind, and the School for the Deaf furnish a bond as a condition of holding the office.

PROTECTION AND ADVOCACY

Senate Bill No. 2266 changes the membership on the Committee on Protection and Advocacy to include a member appointed by ARC of North Dakota and a member appointed by the Mental Health Association in North Dakota. The bill also provides that a member may not provide or hold an interest in an entity that provides direct treatment, nonadvocacy services, or habilitation to address a need related to a disability or a mental illness.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 26.1
Insurance
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 26.1. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

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

AGENTS, BROKERS, CONSULTANTS, AND REPRESENTATIVES

House Bill No. 1175 allows the Insurance Commissioner to adopt rules to allow an applicant or licensee to file documents electronically; provides the types of insurance a domestic stock company, mutual life insurance company, or mutual insurance company may carry; and provides the types of insurance an insurance agent, insurance broker, or surplus lines insurance broker may be licensed to market, provides the examination requirements for licensure, and provides the commissioner may adopt rules relating to licensure.

Senate Bill No. 2181 adds references to limited liability partnerships and removes references to limited insurance representatives in the law relating to insurance agents, brokers, consultants, and representatives; provides the licensure exceptions and requirements for insurance agents, brokers, consultants, and representatives; provides the law relating to insurance agents, brokers, consultants, and representatives licensure revocation, suspension, and refusal; provides the reciprocal penalty, retaliatory charge, and countersignature requirements for foreign insurance companies; and provides fees chargeable by the Insurance Commissioner and who is required to pay which fees.

Senate Bill No. 2407 provides, under certain circumstances, counter sales personnel of an automobile rental entity are not required to be licensed insurance agents or limited insurance representatives to sell certain insurance products related to the rental of an automobile.

GUARANTY ASSOCIATIONS

Senate Bill No. 2251 changes the scope of laws relating to life and health insurance guaranty associations; updates and changes definitions relating to life and health insurance guaranty associations laws; changes the types of subaccounts of a life insurance and annuity account a life and health insurance guaranty association is required to keep; provides additional association powers and duties and removes association powers and duties; and provides association assessment requirements.

Senate Bill No. 2263 repeals existing law relating to the insurance guaranty association and creates new law relating to an insurance guaranty association for property and casualty insurance.

HEALTH INSURANCE

House Bill No. 1039 provides if an insurer provides prehospital emergency medical service benefits, the determination of whether an emergency medical condition exists must be based on a prudent layman standard.

House Bill No. 1136 provides a psychologist and a physician making a health care service utilization review must be licensed in this state and provides utilization review is limited to health care resources and services that are subject to state insurance regulation and which are provided to an individual in this state.

House Bill No. 1176 enacts new law relating to risk-based capital for health organizations.

House Bill No. 1178 provides limitations on preferred provider arrangements; provides under which circumstances a preexisting condition may be considered under a hospital and medical insurance plan; provides who is classified as a "late enrollee" under a small employer employee health insurance plan; provides a definition of "health care insurer"; provides the minimum requirements of an accident and health insurance policy; and provides the duties of a health care insurer under a utilization review.

House Bill No. 1396 provides the minimum mental disorder coverage requirements of a group health insurance policy.

Senate Bill No. 2213 provides group health insurance must cover outpatient mental health treatment services provided by a licensed professional clinical counselor who is qualified in the clinical mental health counseling specialty in this state.

House Bill No. 1297 expands the insurance coverage requirement for mammograms, providing insurance must cover an annual mammogram for women aged 40 and over.

House Bill No. 1452 provides health insurance must include coverage for anesthesia and hospitalization for dental care provided to a covered individual who is under age nine, severely disabled, or who has a medical condition requiring this hospitalization or anesthesia for dental care treatment.

Senate Bill No. 2374 provides required insurance coverage for an inherited metabolic disease does not include coverage for low protein modified food products or medical food to the extent those benefits are available under a Department of Health program.

Senate Bill No. 2400 provides health insurance consumer protection measures, including prohibiting incentives to withhold medically necessary care, retaliation for patient advocacy, and unfair reimbursement; provides a utilization review may not deny coverage for emergency services and may not require prior authorization of emergency medical services; provides a health insurer shall disclose certain information; provides certain medical information is confidential; provides limitations on the circumstances under which an insurance company may sanction a health care practitioner; provides a health care insurance policy must include grievance procedures; and provides limitations on preferred provider arrangements.

LOW-RISK INCENTIVE FUND

House Bill No. 1104 removes the provision that participation of the Bank of North Dakota in a loan to a low-risk business not exceed 10 percent of the aggregate amount of the loan.

House Bill No. 1209 provides a domestic insurance company may invest any of its funds and accumulations in loans, securities, or investments in a North Dakota low-risk incentive fund and expands the tax credits available to a North Dakota low-risk incentive fund.

MUTUAL INSURANCE COMPANIES

Senate Bill No. 2221 provides definitions relating to mutual insurance companies; provides how a domestic mutual insurance company may reorganize with a domestic or foreign mutual insurance holding company; provides how a domestic mutual insurance holding company may acquire ownership of a foreign mutual insurance company; and provides how a domestic mutual insurance holding company may grant membership interests and equity rights in a domestic mutual insurance holding company to eligible members of a foreign mutual insurance holding company.

House Bill No. 1238 provides member notice of a mutual insurance company meeting must be by written notice or by an imprint on each policy, receipt, or certificate of renewal; provides who qualifies as a member of a domestic mutual insurance company and that each member is entitled to one vote; and provides who may vote by proxy, the requirements of voting by proxy, and who is excluded from these requirements.

Senate Bill No. 2295 provides a nonprofit mutual insurance company may form a stock company for the purpose of administering Medicare claims.

PARTNERSHIP FOR LONG-TERM CARE PROGRAM

Senate Bill No. 2046 repeals the partnership for long-term care program.

PROPERTY AND CASUALTY AND AUTOMOBILE INSURANCE

House Bill No. 1202 provides a property and casualty insurer may not base rating, underwriting, or claim handling decisions solely on whether an applicant or insured suffers from domestic violence and provides how a property and casualty insurance policy that excludes property coverage for intentional acts may treat domestic violence.

Senate Bill No. 2376 limits the recoverable damages of a person who is in a motor vehicle accident and does not have liability insurance if that person has at least two convictions of operating a motor vehicle without liability insurance. This bill also provides the director of the department of transportation shall report to an interim legislative council committee in 2002 regarding the effectiveness of this law in decreasing the incidents of driving without liability insurance.

SELF-CRITICAL ANALYSIS PRIVILEGE

House Bill No. 1255 provides an insurance compliance self-critical analysis privilege, which protects the confidentiality of insurance compliance self-critical analysis documents or communications in regard to content relating to voluntary internal compliance audits conducted in regard to activities regulated under insurance law.

MISCELLANEOUS

House Bill No. 1042 corrects a cross-reference relating to filing fees for filing foreign decrees.

House Bill No. 1275 provides duties previously performed by the clerk of court are now provided by the register of deeds or other official designated by the Board of County Commissioners.

Senate Bill No. 2010 decreases the required balances of the unsatisfied judgment fund and the insurance regulatory trust fund and increases the annual salary of the Insurance Commissioner.

Senate Bill No. 2130 provides the State Treasurer is no longer required to file a receipt for premium payment for a blanket bond from the state bonding fund with the State Auditor.

Senate Bill No. 2156 provides the Insurance Commissioner shall adopt by rule the accounting practices and procedures manual published by the National Association of Insurance Commissioners.

Senate Bill No. 2180 provides it is unfair discrimination for an insurer to base coverage decisions solely on the geographic location of the risk; provides circumstances under which a long-term care insurance policy or certificate insurer may not contest or rescind a policy or certificate; provides the right of return to a person who purchases a life insurance certificate; provides a life insurance policy and an accident and health insurance policy must meet certain minimum reading ease score requirements; increases the age of a dependent child who may be on a family accident and health insurance policy; changes the group health policy or service contract standard provisions; provides what the unlawful grounds are for declination or termination of certain commercial insurance policies; changes the penalty for failure to pay the required insurance premium tax or insurance filing fee; and provides a benevolent society is required to pay insurance premium taxes.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 27
Judicial Branch of Government
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 27. Bills primarily affecting other titles may also be summarized in this memorandum to the extent they affect this title.

The legislation relating to the judicial branch of government may be classified in these subject areas: state courts; jury selection; clerk of district court; juvenile courts; and miscellaneous.

STATE COURTS

House Bill No. 1002 provides for salary increases for the Supreme Court justices and district court judges.

House Bill No. 1076 extends the expiration date for the legislation that created the temporary court of appeals from January 1, 2000, to January 1, 2004.

Senate Bill No. 2360 removes the requirement that the clerk of the Supreme Court furnish a $3,000 bond as a condition of taking office.

JURY SELECTION

House Bill No. 1234 allows a party to a proceeding to request that the court direct the jury be selected 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 jurors in the county of venue is inadequate to obtain a fair and impartial jury.

Senate Bill No. 2078 provides that if a natural disaster impairs the selection of a sufficient number of prospective jurors in any county, the Supreme Court may authorize the court in the affected county to obtain additional names and addresses of prospective jurors from another county in the judicial district.

CLERK OF DISTRICT COURT

House Bill No. 1275 provides for state funding of clerk of district court services. The bill defines clerk of district court services as those duties and services that directly serve the judicial system and the provision of effective and efficient judicial services to the public. The bill provides that the options available to a county regarding state funding of clerk of district court services depends on the number of full-time equivalent positions the Supreme Court determines are necessary to provide adequate clerk of district court services. Under the bill, a county in which the Supreme Court determines that at least two FTE employees are necessary would have the option of having state-funded clerk of district court services or providing clerk of court services at the county's own expense; a county in which the Supreme Court determines that more than one but less than two FTE employees are necessary may opt for state-funded clerk of district court services, contract with the Supreme Court for clerk of district court services, or provide the services at the county's own expense; and counties in which the Supreme Court determines that less than one FTE is necessary may either contract with the Supreme Court for clerk of district court services or provide clerk of district court services at its own expense. The bill also provides

for the transfer of equipment between the county and the state, fees to be charged by the clerk of the district court for various filing services, and recordkeeping requirements of the clerk.

House Bill No. 1382 changes the number of FTE employees that triggers a county's options for state-funded clerks of district court in House Bill No. 1275 (described above). Under this bill, the number of FTE employees required to trigger the first option in House Bill No. 1275 is changed from "at least two" to "at least five;" and the number of FTE employees required to trigger the second option in House Bill No. 1275 is changed from "one or more, but less than two" to "one or more, but less than five."

JUVENILE COURTS

Senate Bill No. 2171 implements the federal Adoption and Safe Families Act of 1997, which establishes procedures for the removal of a child from or the return of a child to a home. The bill also establishes procedures for the termination of parental rights and the appointment of a legal guardian.

Senate Bill No. 2300 provides that juvenile court proceedings and the records of those proceedings are open to the public if the purpose of the proceeding is to declare a person in contempt or to consider a petition alleging the juvenile has committed a certain offense.

MISCELLANEOUS

House Bill No. 1044 removes references to the twentieth century in a form providing for the certification of transcripts.

Senate Bill No. 2080 provides that in a proceeding to impose a remedial sanction for failure to pay child or spousal support, the order to pay support is prima facie evidence that the obligor has the ability to pay and the burden of persuasion is on the obligor to prove the obligor's inability to pay the support.

Senate Bill No. 2299 repeals the section of the North Dakota Century Code which provides for a law enforcement data base.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 28
Judicial Procedure, Civil
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 28. Bills primarily affecting other titles may also be summarized in this memorandum to the extent they affect this title.

The legislation relating to judicial civil procedure may be classified under administrative procedure; judgments; and miscellaneous.

ADMINISTRATIVE PROCEDURE

House Bill No. 1025 affects the statute that requires agencies to repeal or amend existing rules that are adopted from federal environmental guidelines unless those guidelines are relevant to state regulatory programs and the statute that requires agencies to adopt by reference any applicable existing permit or procedural rules. Under this bill, these two statutes would no longer be limited to environmental rules and would apply instead to all agency rulemaking.

House Bill No. 1365 provides that in addition to the notice requirements of the section, the Superintendent of Public Instruction is required to provide at least 30 days notice of any proposed rulemaking by the superintendent to each association with statewide membership whose primary focus is elementary and secondary education issues which has requested to receive notice and to the superintendent or president of the school board of each public school in the state. This bill became effective April 9, 1999.

Senate Bill No. 2027 requires agencies to publish an abbreviated notice of rulemaking once in each official county newspaper rather than publishing the full notice twice in the 10 daily newspapers in general circulation in the state. The abbreviated notice must be of a certain size and contain the general subject of the rules, information on how to obtain a copy of the proposed rules, and information about the public hearing.

Senate Bill No. 2110 adds to those areas under the control of the Office of Management and Budget not exempted from the Administrative Agencies Practices Act to include rules adopted under the authority of the Risk Management Motor Vehicle Accident Review Board.

Senate Bill No. 2219 expands the administrative rules notice requirements to provide that the notice filed with the Legislative Council office must be accompanied by a copy of the proposed rules.

JUDGMENTS

House Bill No. 1042 relates to the fee for filing a foreign judgment and removes a cross-reference to the specific subdivision. The fee is increased from $10 to $80 under Section 11-17-04.

House Bill No. 1238 includes Roth individual retirement accounts under the absolute exemptions from process, levy, and sale proceedings.

House Bill No. 1275 relates to the fee for filing a foreign judgment and changes the cross-reference to the section under which the amount of the fee is provided from the current section to a new section created elsewhere in the bill.

Senate Bill No. 2241 includes Roth individual retirement accounts under the absolute exemptions from process, levy, and sale proceedings.

Senate Bill No. 2287 requires that any partial payment made on a judgment must be applied first to postjudgment costs. The bill provides that if the payment exceeds the postjudgment costs, the remainder is to be applied to the interest due and then to the discharging the judgment amount.

MISCELLANEOUS

Senate Bill No. 2393 allows ex parte communications between an agency head and counsel for the agency regarding the status of the proceeding, discovery, settlement, litigation decisions, and other matters commonly communicated between attorney and client.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 29
Judicial Procedure, Criminal
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 29. Bills primarily affecting other titles may also be summarized in this memorandum to the extent they affect this title.

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

House Bill No. 1044 removes references to the twentieth century on the form used for a traffic complaint and summons.

House Bill No. 1237 repeals Section 29-17-11 regarding the completion of a jury panel when an insufficient number of summoned jurors do not appear. The bill also removes a cross-reference to the section.

House Bill No. 1382 provides that any money deposited as bail is the property of the defendant regardless of whether the money is deposited by the defendant or by a third person on the defendant's behalf. The bill also provides that in the case of a conviction, the judge may order the bail money be applied to any fine, costs, or restitution imposed on the defendant with the balance to be returned to the defendant.

House Bill No. 1295 permits a warrantless arrest on a charge, made upon reasonable cause, of being under the influence of volatile chemical vapors prohibited under Section 12.1-31-06.

Senate Bill No. 2189 requires a trial in a felony offense to begin within 90 days of the arraignment unless good cause can be shown for the trial to begin later.

Prepared by the North Dakota Legislative Council staff
April 1999

TITLE 30
Judicial Procedure, Probate
Summary of Bills Enacted by 1999 Legislative Assembly

There was no legislation enacted which 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 1999

TITLE 30.1
Uniform Probate Code
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 30.1. Bills primarily affecting other titles may also affect this title, and those bills may be summarized in this memorandum.

House Bill No. 1042 provides for fees for filing a document with the clerk of district court, including an $80 fee for filing a petition of subsequent administration or filing a registration of trust.

House Bill No. 1275 allows a testator to deposit a will with the register of deeds for safekeeping, instead of the clerk of court, as of January 1, 2001.

House Bill No. 1329 allows an interested party to petition the court or allows the court on its own motion to require the personal representative and the attorney employed by the personal representative to show cause why the estate has not been closed within three years from the date of death of the decedent. If the personal representative or attorney fails to show cause, the court may award attorney's fees or file a complaint with the disciplinary board against the attorney.

Senate Bill No. 2049 allows a safe deposit company to open a safe deposit box for an interested person to remove a will or document required to facilitate the lessee's wishes regarding body, funeral, or burial arrangements, if the lessee is the sole lessee or last surviving co-lessee of a safe deposit box.

Senate Bill No. 2174 clarifies references with respect to effect of orders, nonademption, and severance of tenancies in common with respect to the Uniform Probate Code.

Senate Bill No. 2327 allows the court to award reasonable compensation to a person appointed in a guardianship proceeding if the compensation will not unreasonably jeopardize the ward's well-being. The bill requires the court to determine within a guardianship proceeding if there are any existing general durable powers of attorney or durable powers of attorney for health care and consider these powers when assessing alternative resource plans and the need for a guardian. The bill states a durable power of attorney for health care takes presidence in making medical decisions over the authority of a guardian.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 31
Judicial Proof
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 31. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

Senate Bill No. 2315 provides for the adoption of the Uniform Preservation of Private Business Records Act. The Act provides guidelines for recordkeeping requirements for private businesses.

Prepared by the North Dakota Legislative Council staff
April 1999

TITLE 32
Judicial Remedies
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 32. Bills primarily affecting other titles may also be summarized in this memorandum to the extent they affect this title.

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

CIVIL LIABILITY

House Bill No. 1037 limits state and political subdivision liability for failure to become year 2000 compliant. The bill provides that the state is not liable for a claim resulting from failure of computer hardware, software, telecommunications networks, or device containing a computer processor year 2000 compliant. The bill also provides similar immunity for political subdivisions with respect to a tort claim and provides for year 2000 information requests.

House Bill No. 1303 authorizes a civil remedy of equitable relief, in actual damages or liquidated damages up to $10,000, attorney's fees, and court costs and expenses for the fraudulent use of a Social Security number.

House Bill No. 1242 provides notification of and training requirements for automated external defibrillators and provides for civil liability immunity for the use of an automated external defibrillator by authorized medical personnel.

Senate Bill No. 2303 provides limited liability for year 2000 problems for financial institutions or credit unions if the financial institution or credit union has made a good-faith effort to make and implement a year 2000 readiness plan.

Senate Bill No. 2319 provides for the awarding of exemplary damages against a driver in a motor vehicle accident who was driving while under the influence of alcohol or controlled substances.

Senate Bill No. 2409 allows a trade or professional association to have standing to bring an action for a declaratory judgment to determine any question of construction or validity of any ordinance, rule, or regulation affecting the rights of its members.

RISK MANAGEMENT

Senate Bill No. 2015 provides for a continuing appropriation for all funds deposited in the state risk management fund for the purposes of the fund.

Senate Bill No. 2110 provides for the establishment of a Risk Management Motor Vehicle Accident Review Board to review any accident involving a motor vehicle owned or leased by the state and operated by a state employee.

MISCELLANEOUS

House Bill No. 1044 removes references to the twentieth century in statutory forms used for summons and notice for garnishment.

House Bill No. 1067 relates to changing the name of a person and provides that if the person is a minor, notice of the name change must be published in the official newspaper of the county in which the minor resides and in which the minor's parents reside. The bill also provides that if the minor has a noncustodial parent, that parent must be notified by mail of the intended name change application.

House Bill No. 1275 relates to filing fees paid by a petitioner to the clerk of court. The bill changes a cross-reference to the section which provides for the amount of the fees.

Senate Bill No. 2194 extends the expiration of a garnishment summons from 180 days to 270 days after the service of the summons. The bill also extends the continuing lien on wages by garnishment from 90 to 180 days.

Senate Bill No. 2334 changes the statutory references in Title 32 to reflect changes in Chapter 57-20 from tax sales to foreclosure of tax liens for delinquent property taxes.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 33
County Justice Court
Summary of Bills Enacted by 1999 Legislative Assembly

There was no legislation enacted which primarily affected 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.

Prepared by the North Dakota Legislative Council staff
April 1999

TITLE 34
Labor and Employment
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 34. Bills primarily affecting other titles may also affect this title, and those bills may be summarized in this memorandum.

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

NEPOTISM

House Bill No. 1359 expands the state nepotism law by including the following relatives--parent, stepchild, brother-in-law, sister-in-law, son-in-law, and daughter-in-law--and provides a state official and state employee may not supervise or enter a personal service contract with a relative.

EMPLOYER RETALIATION

House Bill No. 1094 provides a person claiming employer retaliation and seeking assistance from the Department of Labor must file a complaint with the department within three hundred days after the alleged act of wrongdoing.

MEDICAL EXAMINATIONS

House Bill No. 1096 provides an employer that requires a medical examination as a condition of retaining or obtaining employment is responsible for the cost of the examination and provides a medical examination may include a test for the presence of drugs or alcohol.

EMPLOYMENT AGENTS AND AGENCIES

House Bill No. 1095 provides that the new bond requirement for renewal of an employment agency license may be met with an authenticated certificate continuing the bond previously approved by the Commissioner of Labor.

CHILD LABOR

House Bill No. 1097 provides when and where a minor fourteen or fifteen years of age may be employed if the child is exempt from compulsory school attendance.

DIRECTORY OF NEW HIRES

Senate Bill No. 2015 provides the entire amount of civil money penalties collected under the directory of new hire laws must be paid to the state treasury for deposit in the general fund.

Prepared by the North Dakota Legislative Council staff
April 1999

TITLE 35
Liens
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 35. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

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

NONCONSENSUAL COMMON-LAW LIENS

House Bill No. 1179 establishes provisions governing nonconsensual common-law liens that may be asserted against real and personal property and prohibits filing such liens.

FILING AND INDEXING LIENS

House Bill No. 1180 provides a repairman's lien, an unpaid earned property or casualty insurance premium lien, and a child support lien may be entered in the central indexing system.

House Bill No. 1275 updates statutory cross-references relating to fees for filing and indexing a lien.

Senate Bill No. 2119 increases the fee amounts collected by the Secretary of State and the county register of deeds for filing and indexing related to a federal lien, agricultural processor's lien, and agricultural supplier's lien.

MORTGAGES OF REAL PROPERTY

House Bill No. 1044 removes references to the twentieth century.

House Bill No. 1367 provides the timeline under which an owner of a mortgage or other lien on real property must execute a certificate of discharge.

Senate Bill No. 2280 provides a lien record may refer to a document number where a mortgage is recorded instead of the book and page number where the mortgage is recorded.

RELEASE OF LIEN BY UNDERTAKING

Senate Bill No. 2229 provides the procedural requirements by which the property affected by a mechanic's lien, a garage storage lien, a repairman's lien, an agricultural processor's lien, an agricultural supplier's lien, an unpaid earned insurance premium lien, or miner's lien may be released by an undertaking.

Prepared by the North Dakota Legislative Council staff
April 1999

TITLE 36
Livestock
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 36. Bills primarily affecting other titles may also affect this title and relevant sections of those bills are summarized in this memorandum.

House Bill No. 1276 provides for the seizure and confiscation of nontraditional livestock maintained in violation of state law. It provides that livestock may not be offered for sale or sold at any licensed public livestock auction market if the livestock is diseased, has severe neoplasia, has severe actinomycosis, is unable to rise to its feet by itself, or has fractured a long bone. It also provides that all domestic animals and nontraditional livestock brought into this state must be accompanied by a certificate of veterinary inspection certifying that the animals are free from symptoms of all contagious and infectious diseases and that the animals meet disease testing and vaccination requirements prescribed by rule.

House Bill No. 1290 provides an inspection program administered by the Agriculture Commissioner for meat and meat food products prepared solely for intrastate commerce in a slaughtering, meat canning, salting, packing, or similar establishment.

House Bill No. 1315 provides that it is a Class A misdemeanor if a person fails to reclaim an animal within 48 hours of the agreed upon time for the termination of a boarding contract and fails to pay all charges for boarding the animal.

House Bill No. 1337 authorizes the State Board of Animal Health to adopt rules relating to farmed elk, including matters related to their health, safety, confinement, and identification and to order elk returned to their state of origin or slaughtered if they have been brought into this state in violation of rules adopted by the board.

Senate Bill No. 2130 provides that appraisements made in the case of animals that are diseased and consequently condemned must be certified by the Agriculture Commissioner to the Office of Management and Budget rather than to the State Auditor.

Senate Bill No. 2187 creates the North Dakota Stockmen's Association fund as a special fund in the state treasury and provides for the deposit of all brand fees and estray finds received by the Stockmen's Association in return for the performance of statutory duties. All moneys in the fund, together with all interest income earned by the moneys, are appropriated to the Stockmen's Association on a revolving basis.

Prepared by the North Dakota Legislative Council staff
April 1999

TITLE 37
Military
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 37. Bills primarily affecting other titles may also affect this title, and those bills may be summarized in this memorandum.

House Bill No. 1044 eliminates references to the twentieth century in response to the approach of the twenty-first century, in particular as it applies to the enlistment contract for the National Guard.

Senate Bill No. 2360 removes the bonding requirement for various state officials, including the commissioner of Veterans' Affairs and the commandant of the Veterans' Home.

Senate Bill No. 2145 requires a person making a claim for disaster or emergency compensation to provide a written claim to the Office of Management and Budget within one year from when the loss should have been discovered.

Senate Bill No. 2083 removes the authority of the Emergency Commission to repay a disaster or emergency loan from the Bank of North Dakota with funds from the federal recovery administrative reimbursements and the contingency fund.

House Bill No. 1080 allows the Governor to order the National Guard into active service for state ceremonial events, search and rescue efforts, or natural or environmental hazards or nuisances.

Senate Bill No. 2084 sets the state-controlled school tuition waiver for a qualifying member of the National Guard at 25 percent and conditions the waiver on sufficient appropriations.

Senate Bill No. 2131 removes courts of inquiry as military courts. The bill increases fines for court marshals, sets limits for forfeitures of pay and allowances, clarifies other punishments, and allows confinement.

House Bill No. 1275 changes the place where a person discharged from the armed services may record that person's discharge papers from the clerk of court to the register of deeds, unless the Board of County Commissioners designates a different official.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 38
Mining and Gas and Oil Production
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 38. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1085 provides that a person who violates any law, rule, or order of the North Dakota Industrial Commission relating to oil and gas is subject to a civil penalty of up to $1,000 for each offense with each day's violation constituting a separate offense. The bill also provides that a person who willfully violates any provision of Chapter 38-08.1 is guilty of a Class C felony rather than a Class B misdemeanor.

Senate Bill No. 2092 provides that the director of the Oil and Gas Division rather than the state geologist must prepare a form to accompany the notice of drilling operations given to surface owners describing the surface owner's rights and options under Chapter 38-11.1.

House Bill No. 1086 provides that a public service commissioner who presides at an informal surface coal mining permit application conference in reference to a surface coal mining permit application may not preside at a formal administrative hearing or participate in making a final administrative decision on the permit.

House Bill No. 1337 includes farmed elk in the definition of agricultural production for purposes of the Oil and Gas Production Damage Compensation Act.

Prepared by the North Dakota Legislative Council staff
April 1999

TITLE 39
Motor Vehicles
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 39. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to motor vehicles may be classified in these subject areas: Highway Patrol; driving while under the influence; special vehicles; size and weight limitations - commercial vehicles and drivers; liability insurance; rules of the road; title and registration; operator's license; and miscellaneous.

HIGHWAY PATROL

House Bill No. 1072 increases the multiplier for the first 25 years of service for a person who contributed to the Highway Patrolmen's retirement system from 3.25 percent of final average salary to 3.4 percent of final average salary. The bill provides for a refund to a contributor who has less than 10 years of service automatically within 30 days after the termination if the contributor does not provide a written statement requesting the contributor's account to remain in the fund.

House Bill No. 1079 gives a highway patrolman the power of a peace officer when responding to any request for emergency assistance requiring an immediate response.

Senate Bill No. 2360 removes the bond requirement for highway patrolmen.

Senate Bill No. 2077 repeals the Highway Patrol's bidding procedures for contracts for purchasing equipment, materials, and supplies.

DRIVING WHILE UNDER THE INFLUENCE

House Bill No. 1131 increases the term of imprisonment and the term of community service for a second offense for driving while under the influence from four days' to five days' imprisonment and from 10 days' to 30 days' community service. The bill removes the allowance for a deferred imposition of sentence for being in actual physical control or if the defendant is under 18 years of age. The bill allows a vehicle to be seized, forfeited, and sold if a person has driven while under the influence and has been convicted at least one other time within the preceding five years for driving while under the influence.

House Bill No. 1275 changes the place the State Toxicologist is required to file a record of the approved methods and persons qualified to perform breath testing for alcohol from the clerk of court to the register of deeds, unless the Board of County Commissioners designates a different official.

House Bill No. 1304 allows placement in a minimum security facility for a mandatory sentence imposed for driving while under the influence.

Senate Bill No. 2345 provides the State Toxicologist is to determine who is "medically qualified" to draw blood for driving while under the influence. The term must include a medical doctor or registered nurse.

Senate Bill No. 2403 provides that an entry on a driving record or abstract is not available to the public if it concerns a suspension for a person under 21 years of age who had an alcohol concentration of at least .02 percent but not over .10 percent while driving or being in actual physical control of a motor vehicle.

SPECIAL VEHICLES

House Bill No. 1215 increases the weight allowed for all-terrain vehicles from 600 to 1,000 pounds.

House Bill No. 1216 provides for the registration and the licensing of low-speed vehicle dealers and the required equipment for low-speed vehicles. A low-speed vehicle is a vehicle able to obtain the speed of 20 miles per hour and not more than 25 miles per hour and may not exceed 1,500 pounds.

Senate Bill No. 2161 creates a definition for recreational vehicle, allows the transfer of registration credit to a close relative upon transfer of a motor vehicle to that person, clarifies motor vehicle body damage disclosure requirements, and removes the requirement that brakes on low-speed vehicles be four-wheel hydraulic assist brakes.

Senate Bill No. 2357 removes the requirement that the posting of private land to prohibit trespassing by individuals on snowmobiles include the address of the person posting the land and the date of posting.

SIZE AND WEIGHT LIMITATIONS - COMMERCIAL VEHICLES AND DRIVERS

House Bill No. 1065 exempts commercial movement of portable grain cleaners from width limitations.

House Bill No. 1229 allows the director and local authorities to issue permits that allow haulers of potatoes or sugar beets to exceed weight limitations by 10 percent during the period from July 15 to December 1.

House Bill No. 1324 expands the harvest season from February 15 through December 15 to January 1 through December 31 for the purposes of exemption of maximum driving and on-duty time federal regulations for the transportation of agricultural commodities or farm supplies.

House Bill No. 1343 removes the prohibition on the transportation of hazardous materials by an individual who does not meet medical qualifications for interstate travel.

House Bill No. 1405 deems an application for a permit to move a new manufactured building or modular unit from outside this state to inside this state to be a certification by the manufacturer that the building or unit meets applicable building codes and requires the manufacturer of the building or unit to make any changes so that the building or unit may be energized.

Senate Bill No. 2015 creates a continuing appropriation of the proceeds from the sale of an overweight vehicle.

Senate Bill No. 2438 clarifies the intrastate exemption from federal hours of service provisions and exemptions from maintaining records of duty.

LIABILITY INSURANCE

House Bill No. 1326 requires a person without motor vehicle liability insurance who causes damage to another person or another person's property with a motor vehicle to be court-ordered to pay the other person's deductible.

Senate Bill No. 2406 provides that if a driver of a motor vehicle is not an owner of the motor vehicle and is stopped for driving without liability insurance, the driver does not violate the law if the driver provides the court with evidence identifying the owner and describing the circumstances under which the owner allowed the driver to drive the motor vehicle. The bill requires a person who has been convicted of driving a motor vehicle without liability insurance to provide proof of insurance to the Department of Transportation or else that person's driving privileges are suspended. The proof of insurance must be a certificate from an insurance carrier. The convicted person's license must contain a notation showing that the person must keep proof of liability insurance on file with the department. The fee for the notation is $50. The bill requires insurance carriers to notify the director of a cancellation or termination of an insurance policy required for a person convicted of driving without liability insurance. The bill increases the fee for the reinstatement of a driver's license for driving under the influence from $50 to $100.

RULES OF THE ROAD

House Bill No. 1416 requires a driver to pull to the side of the road upon seeing the display of the lights of an authorized emergency vehicle. The bill removes the requirement of sounding an audible signal by the authorized emergency vehicle.

Senate Bill No. 2127 prohibits a fee from being imposed for failing to have a minor in a child restraint system or seatbelt and provides a penalty of one demerit point. The bill increases the years of age up to which a child must be restrained in a child restraint system from three years to four years and increases the years of age in which a minor must be in a child restraint system or seatbelt from 3 through 10 years to 4 through 17 years.

Senate Bill No. 2184 changes the term signal to indication as it relates to traffic control signals and provides for a steady yellow arrow indication in addition to a steady circular yellow indication. The bill provides that a steady red arrow means stop unless entering an intersection to make a movement permitted by another indication except for a right turn on red or a turn left from a one-way street into a one-way street, in which case, the driver may turn after stopping unless prohibited by a sign. The bill provides that a flashing red arrow indication and a flashing yellow arrow indication have the same meaning as a corresponding flashing circular indication except that they apply to drivers intending to make the movements indicated by the arrow. In addition, the bill provides for pedestrian control signals to include a symbol of a walking person or an upraised hand to symbolize walk and do not walk.

Senate Bill No. 2343 increases the penalty for not pulling over for an emergency vehicle from $20 to $50 and creates a disputable presumption that the registered owner of a motor vehicle was the driver of the motor vehicle not yielding to an authorized emergency vehicle.

TITLE AND REGISTRATION

House Bill No. 1012 allows the purchase of a commemorative Lewis and Clark number plate, requires a $10 fee for reserving a plate with a specific number, requires a plate to be mounted

so the words, letters, or numbers on the plate are not covered, requires tabs to be placed in the designated area on the plate, and allows a person to obtain a plate of the same size as is allowed for motorcycles for a trailer or farm trailer.

House Bill No. 1183 increases most motor vehicle registration fees, except for farm trucks, by $1.

House Bill No. 1312 clarifies that the fees for registration must be prorated on a monthly basis for motorcycles and trailers.

House Bill No. 1380 increases the additional registration fee for public transportation from $1 to $2 and doubles the amount received by transportation providers in each county.

Senate Bill No. 2321 increases the amount of motor vehicle body damage required for damage disclosure from $5,000 to $8,000 and specifies that the notation on a subsequent certificate of title for a salvaged vehicle must contain the words "previously salvaged."

OPERATOR'S LICENSE

House Bill No. 1291 creates special procedures for minor motor vehicle operators by requiring a supervising driver of a permittee to be at least 18 years of age and have three years' driving experience, by requiring a six-month instructional period for a permittee, by creating the requirements that a minor with a restricted license may not carry more passengers than suggested by the manufacturer and must carry the license. The bill requires a minor who accumulates a point total in excess of five points or has committed an alcohol-related offense while operating a motor vehicle to be treated as never having a license and complete a course of behind-the-wheel training before the reissuance of a driver's license.

Senate Bill No. 2170 requires that every application for a motor vehicle operator's license contain the applicant's Social Security number.

Senate Bill No. 2233 requires a minor with a driver's license or nondriver photo identification card to have the photograph on the license or card be against a colored border or background that is different from the color for other licenses.

MISCELLANEOUS

House Bill No. 1182 allows other medical professionals besides physicians to report that a person is incapable of safely operating a motor vehicle. The bill allows the director to seek medical advice from an optometrist in relation to operator's license matters. The bill removes the discretionary authority for issuing a nondriver color photo identification card to a resident under 12 years of age. The bill allows the director to act on a report of conviction in tribal court that would be grounds for suspension or revocation of an operator's license. The bill increases the time in which a hearing for driving while under the influence must be held from 25 days plus an extension of 5 days to 30 days. The bill creates a medical exemption from federal safety standards for intrastate drivers that are qualified through a state medical waiver program.

House Bill No. 1375 exempts park model trailers from being required to obtain a mobile home tax permit; however, the owner of a park model trailer must pay the Department of Transportation a fee of $20 per calendar year to qualify for the exemption. A park model trailer is used only for seasonal or recreational living quarters and is located in a trailer park or campground and does not exceed 40 feet in length or 400 square feet in area.

House Bill No. 1389 requires the director of the Department of Transportation to provide the source document for an abstract or the record of clearance to any person and requires a fee of $3 and an additional fee if the department sets up a computer program to provide source documents.

Senate Bill No. 2158 removes the rulemaking criteria for the Department of Transportation in adopting rules relating to tourist-oriented directional signs.

Senate Bill No. 2159 creates a permit process and standards for the placement of vending machines at rest areas.

Prepared by the North Dakota Legislative Council staff
April 1999

TITLE 40
Municipal Government
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 40. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to municipal government may be classified in these subject areas: home rule cities, city officers, special assessments, zoning, tax exemptions, and miscellaneous.

HOME RULE CITIES

House Bill No. 1318 prohibits a home rule city from imposing income taxes.

Senate Bill No. 2198 removes the requirement that a copy of a home rule charter be filed with the clerk of district court for the county in which the city is located. The bill also provides that a copy of a ratified amendment or a repeal of a home rule charter must be filed with the Secretary of State and with the city auditor.

CITY OFFICERS

House Bill No. 1025 provides that terms of council members must be arranged so that one-half of the council members in a city, as nearly as is practicable, are elected in any one election. Previous law provided that only one-half of the council members may be elected in any one election and did not take into consideration the possibility of a city council consisting of an odd number of members.

House Bill No. 1181 provides that if a vacancy exists on a city council which would require an unexpired term to be filled by election, the unexpired term must be designated on the ballot separate from any other regular term or terms that may also appear on the ballot. The bill requires a candidate seeking nomination to an unexpired term to indicate whether the candidate is seeking a regular term of office or an unexpired term of office on the candidate's nominating petition. The bill also provides that the refusal to take the oath of office qualifies as a refusal to serve and a failure to qualify for the office for a person elected or appointed to any municipal office. The bill also removes the requirement that two election clerks be appointed by the governing body of a city for a city election and provides that in voting precincts in which over 300 votes are cast in any previous election, two election clerks may be appointed by the governing body. The bill provides that a petition for nomination to an elective office in a city must meet the requirements of nominating petitions pursuant to general election law and that the nominating petitions may not be circulated or signed more than 90 days before the date when the petitions must be filed.

House Bill No. 1235 removes the requirement that a municipal judge or alternative judge attend, at least twice within one year after taking office and at least twice each calendar year thereafter, a continuing education session designated by the Supreme Court. The bill requires municipal judges and alternative judges to comply with continuing judicial education requirements established by the Supreme Court by rule.

SPECIAL ASSESSMENTS

House Bill No. 1247 removes the requirement that members of a special assessment commission personally inspect all parcels of land subject to a special assessment when the commission makes a special assessment.

Senate Bill No. 2246 provides that special assessments must be included in the real estate tax statement mailed annually to each property owner. The bill is effective for taxable years beginning after December 31, 1998.

Senate Bill No. 2334 changes references with respect to redemption of property subject to special assessments to refer to satisfaction of the tax lien on the lands subject to special assessments. The bill also changes references with respect to sale of real estate if a special assessment is delinquent to foreclosure of the property. The bill is effective for taxable years beginning after December 31, 1998; however, the bill provides that property tax proceedings relating to property taxes due or delinquent for any taxable year before 1999 are subject to provisions of law that were in effect December 31, 1998.

ZONING

House Bill No. 1167 provides that city zoning regulations must provide for emergency management. The bill defines "emergency management" as a comprehensive integrated system at all levels of government and in the private sector which provides for the development and maintenance of an effective capability to mitigate, prepare for, respond to, and recover from known and unforeseen hazards or situations, caused by an act of nature or man, which may threaten, injure, damage, or destroy lives, property, or our environment. The bill also requires that a written plat for a townsite or subdivision which includes lands abutting a river must show a contour line denoting the present shoreline, water elevation, and the date of the survey.

Senate Bill No. 2290 requires a city exercising its extraterritorial zoning authority to hold a zoning transition meeting if the territory to be extraterritorially zoned is currently zoned. The bill requires the city zoning or planning commission to provide at least 14 days' notice of the meeting to the zoning board or boards of all political subdivisions losing their partial zoning authority. The bill also provides that the purpose of the zoning transition meeting is to review existing zoning rules, regulations, and restrictions currently in place in the territory to be extraterritorially zoned and to plan for an orderly transition.

TAX EXEMPTIONS

Senate Bill No. 2051 gives an affected school district or township the right to have a member participate as a nonvoting, ex officio member of the governing body of the city or county when that governing body is considering granting an exemption or the right to make payments in lieu of taxes for a new or expanding business.

House Bill No. 1456 removes the requirement that initial construction on a project must have begun after June 30, 1994, with respect to the eligibility for qualifying to make payments in lieu of ad valorem taxes on buildings, structures, fixtures, and improvements used in the operation of a project for which a property tax exemption or payments in lieu of taxes may be granted.

House Bill No. 1492 authorizes the governing body of a city to apply to the Office of Intergovernmental Assistance to designate a portion of that city as a renaissance zone. The bill provides that income tax and property tax exemptions may be granted to persons investing in real property within a renaissance zone and also authorizes historic preservation and renovation tax credits for investment within renaissance zones.

MISCELLANEOUS

Senate Bill No. 2280 provides that a document number may be recorded on a plat in addition to or instead of a book or page number in which the plat is recorded.

House Bill No. 1275 changes filing requirements from the clerk of district court to the register of deeds, unless the Board of County Commissioners designates a different official, with respect to the filing of various city instruments.

Prepared by the North Dakota Legislative Council staff
April 1999

TITLE 41
Uniform Commercial Code
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 41. Bills primarily affecting other titles may also affect this title, and those bills may be summarized in this memorandum.

The legislation relating to the Uniform Commercial Code affects Article 9 - Secured Transactions.

House Bill No. 1168 provides filing of a financing statement is not required to perfect a security interest in collateral given by a financial institution to secure a letter of credit issued by the Bank of North Dakota to serve as a pledge of security for a public deposit.

House Bill No. 1180 provides the Secretary of State shall develop and implement a computerized central indexing system that must contain the appropriate lien information filed with the office of the Secretary of State or with any of the offices of the registers of deeds.

House Bill No. 1393 provides a debtor's written request for continuation of a filing of a financing statement covering consumer goods may be made at any time.

Senate Bill No. 2002 creates a general services operating fund for the Secretary of State which is funded by certain fees collected by the Secretary of State.

Senate Bill No. 2043 corrects references to the Information Services Division to reflect the name change to the Information Technology Department.

Senate Bill No. 2119 increases the Secretary of State's fee for filing and indexing any statement under the Uniform Commercial Code to $10 and provides the Secretary of State's fees for furnishing copies of central notice system lists must be based on the costs to produce the lists for distribution.

Prepared by the North Dakota Legislative Council staff
April 1999

TITLE 42
Nuisances
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting 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.

Senate Bill No. 2426 provides that a sport shooting range that has been in operation for one year is not a public or a private nuisance if it remains in compliance with noise control or nuisance abatement rules or ordinances in effect on the date it began operating or as against a person who acquires title to real property after the sport shooting range began operating. The bill prohibits a rule, resolution, or ordinance relating to noise control from being applied to prohibit the operation of a sport shooting range after the sport shooting range began operation.

Prepared by the North Dakota Legislative Council staff
April 1999

TITLE 43
Occupations and Professions
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 43. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

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

ACCOUNTANTS

House Bill No. 1150 amends the law relating to accountancy licensure requirements.

COMMISSION ON MEDICAL COMPETENCY

House Bill No. 1157 increases the size of the State Board of Medical Examiners by one public member; dissolves the commission on medical competency and provides the board shall investigate complaints that might give rise to a disciplinary proceeding against a physician, a physician assistant, or fluroscopy technologist; and provides the investigative procedure.

CONTRACTORS

Senate Bill No. 2149 provides the expiration date of a contractor's initial license; increases the civil penalty for practicing without a contractor's license; extends the minimum number of days between a notice of revocation of a contractor's license and the revocation proceedings; and provides a contractor with a revoked license may not be relicensed for a period of up to five years.

ELECTRICIANS

House Bill No. 1088 increases the amount a master electrician and Class B electrician must deposit with the State Electrical Board; increases the maximum balance amount of special funds for completion of abandoned electrical installations; and increases the minimum amount that must be in the fund in order to waive license deposit requirements for license renewals.

House Bill No. 1405 provides a 14-day requirement for providing proof of manufactured building or modular unit compliance with applicable electrical regulations.

House Bill No. 1444 expands the classes of persons exempt from the electrician licensure laws.

INVESTIGATIVE AND SECURITY SERVICES

House Bill No. 1081 amends the law relating to private investigative and security licensure and registration.

MASSAGE THERAPISTS

House Bill No. 1044 removes twentieth century statutory references.

Senate Bill No. 2275 provides a physical therapist assistant is not regulated by the North Dakota Board of Massage and provides in certain circumstances a student of a school of massage is not regulated by the North Dakota Board of Massage.

Senate Bill No. 2309 provides the minimum education standards for licensure as a massage therapist.

NURSE PRACTICES ACT

House Bill No. 1403 provides certain persons may provide medication administration as a part of an individual habilitation or case plan without being a licensed nurse and provides a licensed nurse may delegate medication administration to such an exempt person.

OCCUPATIONAL THERAPISTS

House Bill No. 1467 provides occupational therapy students and occupational therapy aides are governed by the Board of Occupational Therapy Practice; provides occupational therapy licensure requirements; replaces references to the American Occupational Therapy Association with national occupational therapy accrediting agency; and provides a new definition of "occupational therapist practice," "occupational therapy aide," and "occupational therapy student."

OPTOMETRISTS

House Bill No. 1159 provides the optometry licensure by endorsement requirements for applicants who are licensed in another state and provides the optometry licensure application requirements.

PHARMACISTS

House Bill No. 1388 broadens the definition of "practice of pharmacy" to include the performance of laboratory tests to provide pharmaceutical care services which are waived under the Federal Clinical Laboratory Improvement Act of 1988; provides specifically which tests may be performed; and provides the State Board of Pharmacy shall adopt rules addressing pharmacists who perform these tests.

Senate Bill No. 2176 provides for purposes of pharmacist licensure law, "practitioner" means an individual licensed, registered, or otherwise authorized by the jurisdiction in which the individual is practicing to prescribe drugs in the course of professional practice; provides the licensure requirements for a pharmacy intern; expands the authority of a registered pharmacy technician; and provides the types of pharmacy reference material required in a pharmacy.

PHYSICIANS AND SURGEONS

House Bill No. 1158 provides certain out-of-state physicians may practice medicine in this state without obtaining a license from the State Board of Medical Examiners; provides certain physicians who reside on the border of a neighboring state are no longer exempt from the state's licensure laws; provides the State Board of Medical Examiners may adopt rules relating to the licensure, fees, qualifications, activities, scope of practice, and discipline of certain students of osteopathy or medicine, physician assistants, and radiologic technologists; and provides the means by which the board may take disciplinary action against a licensed physician.

PROFESSIONAL SOIL CLASSIFIERS

Senate Bill No. 2190 provides the compensation and reimbursement rate for members of the State Board of Registration for Professional Soil Classifiers; provides the board may negotiate and enter reciprocal agreements with similar agencies in other states; provides the registration requirements for applicants who are licensed in another state; and provides registration fees.

PSYCHOLOGISTS

House Bill No. 1152 provides the Board of Psychologist Examiners may deny renewal of a license if the applicant fails to pay the annual licensing fee and extends the provision that allows public employees to be exempt from the psychology licensing provisions.

REAL ESTATE APPRAISERS

Senate Bill No. 2286 provides documents obtained by the North Dakota Real Estate Appraiser Qualifications and Ethics Board as part of the licensing, investigation, or disciplinary process which are confidential under the uniform standards of professional appraisal practices are exempt records under the state public records law and provides the board may investigate and gather evidence concerning alleged violations of the real estate appraiser law.

STATE BOARD OF WATER WELL CONTRACTORS

House Bill No. 1227 provides continuing education requirements for certified water well contractors and water well pump and pitless unit installers.

STATE REAL ESTATE COMMISSION

House Bill No. 1164 provides a real estate broker who does not accept trust funds in real estate brokerage transactions who applies and receives a waiver from the Real Estate Commission is not required to maintain a designated trust account and increases the amount of personal funds a real estate broker may keep in a trust account to cover service charges.

Senate Bill No. 2064 provides a person licensed by the Real Estate Commission is not liable for any action resulting from any disclosure or nondisclosure relating to the registration of a sexual offender.

Senate Bill No. 2098 changes from three years to two years the reporting period for real estate broker continuing education requirements.

VETERINARIANS

House Bill No. 1074 provides licensure requirements for veterinary technicians and veterinarians.

House Bill No. 1294 provides certain persons who perform direct embryo transfer procedures on a recipient cow are exempt from the licensure requirements of the State Board of Veterinary Medical Examiners.

MISCELLANEOUS

House Bill No. 1275 provides a massage therapist license must be recorded within thirty days after issuance; updates abstractors statutory cross references relating to fees for certifying an abstract; and provides under Real Estate Commission, massage therapy, and reflexologists law the duties previously performed by the clerk of court are now provided by the register of deeds or other designated official.

Prepared by the North Dakota Legislative Council staff
April 1999

TITLE 44
Offices and Officers
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 44. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to offices and officers may be classified in these subject areas: open records; state and local officers; state officer and employee lodging reimbursement; and notaries public.

OPEN RECORDS

House Bill No. 1037 allows a public entity to gather year 2000 processing information and provides that a response to such a request is not a public record. The bill provides that a response to a request for year 2000 processing information may not be used, offered in evidence, or be subject to discovery in any civil action for damages in tort, contract, or for any other form of relief against the public entity or person. The bill states that the exceptions apply to all responses to year 2000 requests received by a public entity whether the response was received before or after August 1, 1999.

Senate Bill No. 2076 provides that except as otherwise specifically provided by law, personal information regarding a licensee maintained by an occupational or professional board, association, or commission created by law is exempt from open records law requirements.

Senate Bill No. 2141 provides that a donor's or prospective donor's name, address, telephone number, tax or financial record, or other personal information received or retained by a board of higher education or University System officer or employee is exempt from statutory and constitutional open records requirements.

Senate Bill No. 2313 provides that personal and financial information submitted to a state agency as part of a consumer complaint, or gathered pursuant to an investigation of a consumer complaint is a record that is exempt from open records requirements and is not required by law to be open to the public. The bill provides that personal and financial information means the home address, home telephone number, social security number, consumer report, and credit, debit, or electronic fund transfer card number of a complainant and any person on whose behalf the complaint is made, and any account number of a business or individual at a bank, brokerage, or other financial institution. The bill further provides that personal and financial information does not include the nature of a complaint, the name of the complainant or any person on whose behalf the complaint was submitted, or the address or telephone number of the business that is the subject of the complaint.

House Bill No. 1138 provides that a patient record of a patient at a state college or university student health service, the University of North Dakota Medical Center or family practice center, or other University System medical center or clinic is confidential.

Senate Bill No. 2128 allows an entity that possesses public records to impose a fee not exceeding $25 per hour per request, excluding the initial hour, for locating records if locating the records requires more than one hour.

STATE AND LOCAL OFFICERS

House Bill No. 1181 provides that for the purpose of determining if an office becomes vacant the failure to qualify for the office includes the failure to take the designated oath of office required by law. The bill also provides that all political subdivision offices are included within the law that deems an office vacant when a person fails to qualify. Under prior law, only a state, district, or county office was deemed vacant when a person failed to qualify.

House Bill No. 1149 includes all political subdivisions within the law that provides that an office becomes vacant if the incumbent ceases to be a resident of the state, district, county, or political subdivision in which the duties of the office are to be discharged, or for which the person may have been elected. Under prior law, the only political subdivisions included were counties and townships.

Senate Bill No. 2360 removes the statutory provision that deputies appointed by the Secretary of State, State Auditor, State Treasurer, Superintendent of Public Instruction, Commissioner of Insurance, Agriculture Commissioner, Commissioner of Labor, district assessor, and city assessor may be required to post a bond.

Senate Bill No. 2013 removes the authority of the Superintendent of Public Instruction to appoint a deputy.

Senate Bill No. 2130 changes the reimbursement of members of the Senate, while sitting as a court of impeachment, and members of the House of Representatives while attending the court of impeachment, from the regular per diem, plus $5 per day to the amount set by law for reimbursement of members of the Legislative Assembly during organizational, special, and regular sessions. The bill also transfers the responsibility for paying the expenses of a court of impeachment from the State Auditor to the Office of Management and Budget.

House Bill No. 1275 provides that effective January 1, 2003, a clerk of district court is no longer an officer that may be removed by the Governor. The bill provides that between January 1, 2001, and January 1, 2003, a clerk of district court who is not an employee of the state judicial system may be removed from office by the Governor for misconduct, malfeasance, crime in office, neglect of duty in office, or habitual drunkenness or gross incompetency. House Bill No. 1002, the judicial branch appropriation, changed the January 1, 2001, effective date in House Bill No. 1275 to April 1, 2001.

House Bill No. 1359 revises the state nepotism law to provide that a state official or state employee, in the exercise of that official's or employee's duties, may not serve in a supervisory capacity over, or enter a personal contract with, that official's or employee's parent by birth or adoption, spouse, son or daughter by birth or adoption, stepchild, brother or sister by whole or half-blood or by adoption, brother-in-law or sister-in-law, or son-in-law or daughter-in-law. The bill provides that the prohibition does not apply to an employment relationship or contract entered before August 1, 1999, any employment relationship or contract entered before the state official or employee assumed the supervisory capacity, or any temporary work arrangement necessary to meet a critical and urgent agency need. Previous law prohibited a head of any executive or administrative department from appointing a spouse, son or daughter, or brother and sister to any position under the control or direction of the department head.

House Bill No. 1184 provides that an applicant for a position as a law enforcement officer for any state or political subdivision agency must be asked in any written application for that position whether the applicant has ever pled or been found guilty of a felony including a felony charge that was later dismissed under a deferred imposition of sentence.

Senate Bill No. 2118 increases the maximum fee that an officer authorized to take and certify acknowledgments of deed or other instruments from $1 to $5.

STATE OFFICER AND EMPLOYEE LODGING REIMBURSEMENT

House Bill No. 1341 increases the lodging reimbursement for in-state lodging for state officers and employees from $39 plus any additional state or local taxes to $42 plus any additional state or local taxes.

Senate Bill No. 2108 requires the Office of Management and Budget to seek to obtain sales tax exemptions for state employee travel lodging expense from all other states and the District of Columbia. The bill also provides that if exemptions are obtained, and if travel plans are sufficiently certain, a state agency may obtain the required documentation from the Office of Management and Budget and arrange with the out-of-state lodging provider to have the agency prepay the lodging expense or to have the lodging expenses directly billed to the agency and obtain the benefit of the sales tax exemption.

NOTARIES PUBLIC

House Bill No. 1126 removes the requirement that the Secretary of State provide notice to the clerk of district court of the proper county when the commission of a person appointed as a notary is subject to a revocation action. The bill also provides that a notary public may not notarize a signature on a document if the document was not first signed or re-signed in the presence of the notary public, in the case of a jurat, or in the case of a certificate of acknowledgment, was not acknowledged in the presence of the notary public. The bill provides that a notary public may not notarize a signature on a document if the date of the jurat or certificate of acknowledgment is not the actual date the document is to be notarized.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 45
Partnerships
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 45. Bills primarily affecting other titles may also affect this title, and those bills may be summarized in this memorandum.

House Bill No. 1372 provides if a statement of fictitious partnership name certificate renewal reflects a change of membership or change of address of the principal place of business, the statement may not be filed with the secretary of state until all fees associated with these changes are paid.

Senate Bill No. 2271 extensively amends portions of the Uniform Limited Partnership Act, fictitious partnership name law, general partnership law, nature of partnership law, relations of partners to persons dealing with partnership law, and limited liability partnerships law; creates new law relating to the Uniform Limited Partnership Act, general partnership law, relations of partners to persons dealing with partnership law, limited liability partnerships law, and limited liability limited partnerships law; and repeals law relating to the Uniform Limited Partnership Act and limited liability partnerships.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 46
Printing Laws
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 46. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1275 provides for funding of certain clerk of district court services through the state judicial system. The bill amends North Dakota Century Code Section 46-04-05 effective January 1, 2003, to provide that after elimination of the clerk of district court as an elected official the Board of County Commissioners is responsible to furnish a copy of North Dakota Session Laws and Century Code publications to the clerk of court only if the county has an ex officio clerk of court.

House Bill No. 1170 eliminates the requirement that the Office of Management and Budget examine all printing contracts and invoices. The bill removes the requirement that either the Legislative Assembly or the Office of Management and Budget must approve payment for all state printing costing $750 or more. The bill removes the requirement that all state agencies must send a copy of purchase orders for printing to the Office of Management and Budget for review. The bill eliminates a reference to the state printing agent, whose duties have been absorbed into the Office of Management and Budget.

Prepared by the North Dakota Legislative Council staff
April 1999

TITLE 47
Property
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 47. Bills primarily affecting other titles may also affect this title, and those bills may be summarized in this memorandum.

House Bill No. 1044 eliminates references to the twentieth century in response to the approach of the twenty-first century. In particular, the bill changes the references in the form for a lessor to use to provide newspaper notice to a lessee of oil, gas, or other mineral leases of the termination or forfeiture of the lease.

House Bill No. 1109 removes the requirement that the register of deeds must forward a copy of the death certificate of a joint tenant in land to the Tax Commissioner.

Senate Bill No. 2243 requires the name and address of the drafter of a metes and bounds description in a deed to be filed with the register of deeds.

House Bill No. 1275 changes the place of filing a petition for the appointment of appraisers of a homestead from the clerk of court to the register of deeds, unless the Board of County Commissioners designates a different official.

Senate Bill No. 2280 provides technical corrections to the process for recording an instrument that is incorporated in a master form.

House Bill No. 1013 limits the time records must be kept for an audit by the Unclaimed Property Division to a period of time not exceeding the current year and the seven preceding years. The bill prohibits the division from making contracts for in state audits. The bill clarifies the administrative procedure for a person aggrieved by the division and entitles that person to a hearing before the Board of University and School Lands.

Prepared by the North Dakota Legislative Council staff
April 1999

TITLE 48
Public Buildings
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 48. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1418 provides that multiple prime bids for general, electrical, and mechanical portions of a project are required when any combination of individual contracts for general, electrical, or mechanical work is in excess of $100,000.

House Bill No. 1173 provides that the director of the Office of Management and Budget shall employ necessary mailing bureau staff rather than a mailing clerk and an assistant mailing clerk.

Senate Bill No. 2130 removes the State Auditor as an entity to whom the governing board of an entity must certify estimates for the payment of public construction projects.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 49
Public Utilities
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 49. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to public utilities may be classified in these subject areas: telecommunications; electricity; railroads; one-call excavation notice system; and Public Service Commission.

TELECOMMUNICATIONS

Senate Bill No. 2420 allows group I telecommunications companies to increase the monthly price of residence service up to $15.50 after July 31, 1999, and up to $18 after June 30, 2000. A telecommunications company increasing prices must submit a report to the Public Service Commission reasonably demonstrating that it reduced the prices of its intrastate IntraLATA message toll service and intrastate switched access in an aggregate by an annual amount not less than the annual revenue increase resulting from the service price increases. The bill requires the commission to implement certain requirements of the federal Communications Act of 1934, as amended by the federal Telecommunications Act of 1996, and prohibits telecommunications companies from discriminating against other providers and degrading the quality of access or service provided to another provider of telecommunications services.

House Bill No. 1169 prohibits telecommunications companies from initiating intrastate telecommunications service to subscribers without authorization. This bill became effective March 25, 1999.

Senate Bill No. 2234 prohibits the Public Service Commission from setting aside any telecommunications price in effect on January 1, 1999, for intrastate switched access service provided by any rural telephone company upon complaint by an interexchange telecommunications company that the price is unreasonably high, except a price for intrastate switched access service in an exchange may be set aside to the extent it is unreasonably high as a consequence of recovery of costs of intrastate switched access service in that exchange from any explicit federal or state mechanisms to preserve and advance universal service; a sale, assignment, or other transfer of ownership or control of that exchange after January 1, 1999; or reduction of prices after January 1, 1999, for any other services provided in that exchange. This bill expires July 31, 2001.

Senate Bill No. 2094 provides that telecommunications companies that make telephones available to the public or to transient users of that person's premises, for intrastate telephone calls using a provider of operator services, must ensure that each of its telephones presubscribed to a provider of operator services allows a consumer to use "toll free "8XX"" or "101XXXX 0+" access code numbers to obtain access to the provider of operator services desired by the consumer. Telecommunications companies are also required to ensure that no charge to the consumer for using a "toll free "8XX"" or "101XXXX 0+" access code number is greater than the amount charged for calls placed using the presubscribed provider of operator services.

House Bill No. 1450 provides that a telecommunications company may not be an eligible telecommunications carrier unless the company offers all services supported by federal universal service mechanisms throughout the study area.

House Bill No. 1050 extends the Regulatory Reform Review Commission through 2002.

House Bill No. 1451 prohibits political subdivisions from imposing a fee on a telecommunications company for the use of the political subdivision's right of way other than a fee for its management costs. This bill applies retroactively to January 1, 1999.

ELECTRICITY

House Bill No. 1445 provides that except for purposes of transmission facility siting under Chapter 49-22 and regulatory accounting, including the determination of the demarcation between federal and state jurisdiction over transmission in interstate commerce and local distribution, for purposes of Title 49 and Chapters 57-33 and 57-33.1, lines designed to operate at a voltage of 41.6 kilovolts or more are transmission lines, and lines designed to operate at a voltage less than 41.6 kilovolts are distribution lines.

RAILROADS

House Bill No. 1272 allows the governing body of a city to adopt a quiet zone ordinance, prohibiting a locomotive engine from sounding a warning device at crossings within the quiet zone under regular crossing conditions.

Senate Bill No. 2435 provides that in circumstances involving an accident between a pedestrian or vehicle and a locomotive or part of a train in which the engineer or any other crew member of the train is interviewed by a law enforcement officer, the engineer or any other crew member may not be required to furnish a motor vehicle operator's license and no citation involving the operation of a train in violation of Title 39 may be issued against the engineer or any other crew member of the train.

ONE-CALL EXCAVATION NOTICE SYSTEM

Senate Bill No. 2265 provides that an excavator may not use a location for more than 10 days, rather than 72 hours as provided under present law, or any extension of that period, after the planned excavation date unless the excavator has made previous arrangements with the operators affected.

Senate Bill No. 2015 provides that an excavator may not use a location for more than 10 days, rather than 72 hours as provided under present law, or any extension of that period, after the planned excavation date unless the excavator has made previous arrangements with the operators affected.

PUBLIC SERVICE COMMISSION

Senate Bill No. 2008 appropriates $3,569,056 to the Public Service Commission and provides that the annual salary of a public service commissioner is $58,262 through June 30, 2000, $59,428 through December 31, 2000, and $64,569 thereafter. The bill also defines access to directory assistance as an essential telecommunications service.

Senate Bill No. 2360 deletes the bond requirements for public service commissioners.

Senate Bill No. 2130 deletes the requirement that funds received by the director of the Department of Transportation from regional railroad authorities be paid on warrants drawn by the State Auditor on vouchers approved by the director of the Department of Transportation.

Prepared by the North Dakota Legislative Council staff
April 1999

TITLE 50
Public Welfare
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 50. Bills primarily affecting other titles may also be summarized in this memorandum to the extent they affect this title.

The legislation relating to public welfare may be classified in these subject areas: welfare reform; nursing homes and related facilities; department of human services programs; foster care and adoption; charitable organizations; and miscellaneous.

WELFARE REFORM

Senate Bill No. 2114 amends the definition of "local expenses of administration" to exclude costs associated with achieving caseload ratios of 65 cases to one worker. The bill also requires that, in its administration of the temporary assistance for needy families program, the Department of Human Services must determine the unemployment rate of adults living on an Indian reservation by using the unemployment data provided by Job Service North Dakota.

NURSING HOMES AND RELATED FACILITIES

Senate Bill No. 2033 provides a definition for the term "managed care organization" and amends the definition of "private-paying resident" to include a nursing home resident whose payment rate is not negotiated by any managed care organization contracting with a facility to provide services for the resident. The bill prohibits a nursing home from charging a managed care organization a rate that is less than the rate approved by the Department of Human Services for a medical assistance recipient in the same classification. The bill also repeals Section 50-06-14.3, which required the department to develop basic care facility ratesetting methodology.

Senate Bill No. 2168 provides for the creation of a funding pool to establish the North Dakota health care trust fund. The purpose of the fund is to make grants and loans to support the development of basic care facilities, assisted living facilities, and other alternatives to nursing facility care. The bill also repeals Chapter 50-21, which provided for the administration of a revolving fund for nursing homes and homes for the aged.

DEPARTMENT OF HUMAN SERVICES PROGRAMS

House Bill No. 1038 provides that medical assistance coverage must include prehospital emergency medical services benefits if the symptoms exhibited by the person indicate to a layman that the person is in need of immediate medical attention.

House Bill No. 1384 includes pre-need funeral service contracts among the sources from which the Department of Human Services may not consider when determining eligibility for medical assistance.

Senate Bill No. 2012 requires the Department of Human Services to reimburse county social service boards for locally administered economic assistance programs in counties in which more than 20 percent of the caseload for these programs consists of people who reside on a federally recognized Indian reservation or property tax-exempt tribal trust lands. The bill requires a

county to reimburse the state for the county's share of one-fourth of the amount expended in the state in excess of any federal payments on behalf of children in foster care or subsidized adoption. The bill places a moratorium on the expansion of residential child care facility bed capacity. The bill provides for the implementation of a children's health insurance program, which is a program to provide health assistance to low-income children whose parents' income does not exceed 140 percent of the poverty line. The program would provide coverage for inpatient and outpatient hospital services, psychiatric and substance abuse services; prescription medications; preventive screening services; preventive dental and vision services; and prenatal services. The bill also provides for limits on the number of units within nursing homes which exclusively provide geropsychiatric services.

Senate Bill No. 2034 repeals Section 50-06-14.4, which required the Department of Human Services to establish projects designed to meet the service needs of the Alzheimer's and related dementia population. The repeal becomes effective on July 1, 2001.

Senate Bill No. 2036 allows the Department of Human Services to continue the Alzheimer's and related dementia population and 24 hour care pilot projects during the 1999-2001 biennium. The bill also provides for an assisted living facility classification to replace the current basic care and assisted living.

Senate Bill No. 2157 authorizes the Department of Human Services to convey certain land in Stutsman County, North Dakota.

Senate Bill No. 2170 provides for technical and conforming amendments to the child support laws and the state disbursement unit including the requirement that in addition to other identifying information, the Social Security number of any child for whom an order of child support is made must be included in the case payment records.

FOSTER CARE AND ADOPTION

Senate Bill No. 2171 implements the federal Adoption and Safe Families Act of 1997, which establishes procedures for the removal of a child from or the return of a child to a home. The bill also establishes the requirements for conducting criminal history record investigations on individuals applying to be licensed or approved for foster care or have a home deemed suitable for the adoption of a child. The bill provides for adoption assistance and medical assistance for the adoption of a child with special needs.

CHARITABLE ORGANIZATIONS

House Bill No. 1401 relates to charitable solicitations and clarifies the definitions of the terms "contribution" and "solicitation"; the information required on the application for a charitable solicitation license; the information required of professional fundraisers on their application for a license; the annual report filing date; the information required on the annual report; and the procedures for denying or revoking a license. The bill also provides for the imposition of civil penalties and denial of licensure or registration for up to five years. The bill repeals a section pertaining to the information required on a license application form. The provisions of the repealed section are incorporated into sections 2 and 3 of the bill.

MISCELLANEOUS

House Bill No. 1119 repeals Chapter 50-20 which requires the reporting of births out of wedlock and the reporting of births with congenital deformities. The bill also removes a cross-reference to the chapter.

Prepared by the North Dakota Legislative Council staff
April 1999

TITLE 51
Sales and Exchanges
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 51. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1153 provides for the establishment of an escrow fund into which tobacco product manufacturers must place a designated amount of money based upon the number of cigarettes sold each year after 1999. The bill provides that the money in the escrow fund be held to pay judgments or settlements against tobacco product manufacturers. The bill was declared an emergency measure and became effective April 8, 1999.

House Bill No. 1275 provides that effective January 1, 2001, when the Public Service Commission compiles an annual list of names and addresses of licensed auctioneers and auction clerks the list must be mailed to the register of deeds of each county, unless the Board of County Commissioners designates a different official. Until January 1, 2001, the list must be mailed to the clerk of district court.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 52
Social Security
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 52. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

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

NEW JOBS TRAINING

Senate Bill No. 2096 provides new jobs training and education program services developed and coordinated by Job Service North Dakota must be provided to primary sector businesses that provide self-financing as funding for new jobs training programs and these employers may be reimbursed in an amount up to 60 percent of the allowable state income tax withholding generated from the new jobs positions.

NORTH DAKOTA STATE EMPLOYMENT SERVICE

House Bill No. 1443 provides the requirements for institutions of higher education that are assigned primary responsibility for work force training.

UNEMPLOYMENT COMPENSATION FUND

House Bill No. 1089 provides the State Auditor may contract with a consulting firm for the performance audit of Job Service North Dakota; provides the specific requirements of the 1999-2001 performance audit; and provides allowed uses for money credited to the unemployment compensation fund pursuant to section 903 of the Social Security Act.

UNEMPLOYMENT COMPENSATION

House Bill No. 1090 provides certain types of continuing levies authorized under the Internal Revenue Code may encumber a right to benefits under the North Dakota unemployment law.

House Bill No. 1091 provides a new formula for establishing the unemployment compensation maximum weekly benefit amount.

House Bill No. 1135 changes the required balance of the unemployment compensation fund; changes the calculation of premium rates; and changes the maximum potential benefits for employees employed by employers in industry group number 161 - highway and street construction, except elevated highways.

House Bill No. 1269 provides, for purposes of determining eligibility for unemployment compensation benefits, the circumstances under which a temporary employee of a temporary help firm is deemed to have left employment voluntarily.

Senate Bill No. 2150 provides, for purposes of unemployment compensation law, "employment" does not apply to certain services performed as an election official or election worker.

Senate Bill No. 2280 provides a lien against an employer must be recorded in the appropriate index record instead of the appropriate index book.

OLD-AGE AND SURVIVOR INSURANCE

House Bill No. 1070 increases the primary insurance benefit for Old-Age and Survivor Insurance and repeals the Old-Age and Survivor Insurance tax provisions.

Senate Bill No. 2358 provides the maximum levy a county may levy to meet the county's obligations for Old-Age and Survivor Insurance.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 53
Sports and Amusements
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 53. Bills primarily affecting other titles may also be summarized in this memorandum to the extent they affect this title.

Senate Bill No. 2003 increases the cost of the gaming stamps required to be affixed to each deal of pull tabs and bingo cards, punchboard, sports pool board, calcutta board, and series of paddlewheel ticket cards sold from 25 cents to 35 cents each. The bill also provides that 10 cents of each stamp sold, up to $36,000 per biennium, must be credited to the Attorney General's operating fund for the purpose of defraying the costs of issuing the gaming stamps.

Senate Bill No. 2132 amends several provisions of the games of chance statutes. The bill requires an organization that discontinues gaming to work with the Attorney General's office to timely disburse the organization's net proceeds. The bill enables the gaming rules or the Attorney General to exempt certain gaming employees, including 16- or 17-year-olds who only conduct limited or infrequent gaming activity, from the criminal history record check requirement. The bill also allows the State Gaming Commission to set the criteria for determining the necessary number of twenty-one or paddlewheel tables at a site as a basis for calculating the amount of rent that may be paid. The bill enables a veterans' organization to establish a special trust fund with gaming net proceeds for maintaining a veterans' cemetery. The bill authorizes the Attorney General to require an organization that is in poor financial condition to make monthly estimated game and excise tax payments.

Prepared by the North Dakota Legislative Council staff
April 1999

TITLE 54
State Government
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 54. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

LEGISLATIVE ASSEMBLY

House Bill No. 1415 provides that the majority and minority leaders of the House and Senate are each entitled to receive as compensation, in addition to any other compensation or expense reimbursement provided by law, the sum of $250 per month during the biennium for their execution of public duties.

House Bill No. 1300 authorizes the executive officer in charge of a state agency or the governing body of any political subdivision to grant a leave of absence from employment to a full-time employee of that governmental entity who is a member of the Legislative Assembly for service during any regular or special session of the Legislative Assembly. The bill prohibits a state agency or a political subdivision from terminating the employment of an employee solely due to the fact that the employee is absent from employment as a result of service in the Legislative Assembly. The bill also provides that a leave of absence for service in the Legislative Assembly may be without pay, and the employer may reduce or eliminate the payment of any additional benefits normally due the employee while the employee is performing legislative service.

Senate Bill No. 2209 authorizes the Legislative Council to set the date of convening of the organizational session at any time after December 1 but not later than December 15 of each even-numbered year. Under previous law, the date of the organizational session was required to convene on the first Tuesday after the first Monday in the month of December in each even-numbered year.

LEGISLATIVE LOBBYING

Senate Bill No. 2116 establishes fees that the Secretary of State may charge for late filing of lobbyist expenditure reports. The bill provides that if the report is filed within 60 days after the August 1 deadline, the fee is $25 and if the report is filed more than 60 days after the August 1 deadline, the fee is $50. The bill also provides that if a registered lobbyist fails to file an expenditure report and pay a late fee by October 1, the lobbyist's registration is automatically revoked. The bill removes the requirement that a current list of lobbyists be posted in the legislative chambers during the legislative session. The bill was declared to be an emergency measure and became effective on March 19, 1999.

STATE OFFICERS

Senate Bill No. 2360 removes statutory provisions requiring various state officers to post bonds.

Senate Bill No. 2237 authorizes the executive officer in charge of a state agency or the governing body of a political subdivision to grant a leave of absence, upon issuance of an order

or proclamation declaring a state of disaster or emergency, to any full-time employee of that governmental entity who is an emergency medical service provider, a member of the civil air patrol, a firefighter, a police officer, or emergency radio operator, or who performs other services necessary in an emergency. The bill provides that the leave of absence must be for the purpose of allowing the employee to provide voluntary emergency services and provides that the leave may not result in a loss of compensation, seniority, annual leave, sick leave, or accrued overtime for which the employee is otherwise eligible. The bill authorizes the executive officer in charge of a state agency or the governing body of a political subdivision to grant temporary short-term leave with compensation to a full-time employee of that governmental entity for the purpose of allowing the employee to respond to an emergency call if the employee is a volunteer emergency medical service provider, firefighter, emergency radio operator, or a member of the civil air patrol.

House Bill No. 1174 authorizes the State Employee Suggestion Incentive Committee to consider whether a recommendation or proposal to reduce expenditures within an employee's agency applies to any other state agency and requires the committee to notify the Office of Management and Budget of any recommendation that affects an agency other than the agency employing the employee making the recommendation or proposal. The bill provides that in reviewing recommendations and proposals, the Suggestion Incentive Committee must determine if the recommendation or proposal is beyond the reasonable expectations of job performance for the employee who made the suggestion and whether implementation of the recommendation or proposal will continue to provide the quality of services provided by the employing agency and any other agency affected by the recommendation or proposal. The bill increases the amount an employee is entitled to receive for an implemented recommendation or proposal from 10 percent to 20 percent of any savings realized and increases the maximum amount of an award from $1,000 to $2,000.

House Bill No. 1125 reduces from two copies to one copy the number of reports required to be submitted to the state archivist when state entities submit biennial agency reports. The bill also provides that all biennial agency reports required to be submitted to the Secretary of State must be subsequently transmitted by the Secretary of State to the state archivist for official and public use following receipt and review by the Secretary of State.

House Bill No. 1173 exempts institutions under the control and management of the State Board of Higher Education from the requirement that state entities obtain authorization from the director of the Office of Management and Budget to use or obtain a postage meter.

GOVERNOR AND LIEUTENANT GOVERNOR

Senate Bill No. 2001 increases the salary of the Governor from $75,372 to $76,879 through June 30, 2000; to $78,417 through December 31, 2000; and to $83,013 thereafter. The bill increases the salary of the Lieutenant Governor from $61,944 to $63,183 through June 30, 2000, and to $64,447 thereafter.

SECRETARY OF STATE

House Bill No. 1356 provides that the Secretary of State may not charge a fee for filing any process, notice, or demand for service for a member of the Legislative Assembly or a state or county officer.

Senate Bill No. 2117 repeals the requirement that the Secretary of State mark indelibly each book distributed to officers of the state except members of the Legislative Assembly, with the name of the county to which, and the official designation of the officer to whom, the book is sent.

Senate Bill No. 2002 establishes a special fund in the state treasury to be known as the Secretary of State's general services operating fund. The bill provides that moneys in the fund are to be used pursuant to legislative appropriation for the provision of services for placing data in and obtaining computer access to the centralized central notice system, to the computerized Uniform Commercial Code central filing data base, or to the computerized statutory liens data base; for receiving printouts; and for other services provided through the computerized system; for furnishing lists from the computerized central notice system; and for preparing a listing or compilation of information recorded or filed in the Secretary of State's office. The bill requires the Secretary of State to transfer to the general fund any unobligated balance remaining in the fund which exceeds $75,000. The bill also increases the salary of the Secretary of State from $57,120 to $58,262 through June 30, 2000; to $59,428 through December 31, 2000; and to $61,142 thereafter.

STATE AUDITOR

Senate Bill No. 2130 requires the State Treasurer to credit the State Auditor operating account with the amount of interest earnings attributable to the deposits in that account. The bill also removes a requirement that provides that the State Auditor prescribe and enforce a correct and uniform method of keeping financial accounts in public offices and institutions, recommend a form for warrants or for order checks of all local units of governments except school districts, and instruct the proper officer of each public institution in the due performance of the officer's duties.

House Bill No. 1066 provides that the State Auditor, at the request of the board of directors of the International Peace Garden, may audit the International Peace Garden.

Senate Bill No. 2004 increases the salary of the State Auditor from $57,120 to $58,262 through June 30, 2000; $59,428 through December 31, 2000; and to $62,855 thereafter.

STATE TREASURER

Senate Bill No. 2005 increases the salary of the State Treasurer from $57,120 to $58,262 through June 30, 2000; to $59,428 through December 31, 2000; and to $61,142 thereafter.

ATTORNEY GENERAL

Senate Bill No. 2419 provides that all funds recovered by the Attorney General as a result of negotiated settlements or court proceedings must be deposited in a special fund in the state treasury and may be appropriated only by the Legislative Assembly, except when a specific fund or special account is otherwise designated by law or the options open to the Attorney General leave no choice as to the disposition of the proceeds if the state is to recover funds in a multistate settlement. The bill also provides that moneys in the Attorney General refund fund may be used to provide refunds of moneys recovered by the Consumer Protection and Antitrust Division only on behalf of specifically named consumers.

Senate Bill No. 2371 changes the threshold amount at which moneys in the Attorney General assets forfeiture fund must be deposited in the general fund from the total aggregate amount exceeding $500,000 at the end of each fiscal year to deposits into the fund which do not come from legislative appropriation and are not payable to another governmental entity exceeding $200,000 within a biennium.

House Bill No. 1205 requires the Attorney General to provide to a law enforcement dispatch center access to registration information on individuals required to register as sexual offenders or for committing crimes against children through any feasible electronic means including direct access to a computerized registration information data base. The bill requires the Attorney

General to provide the information in a form that is referenced by a driver's license number or number plate characters. The bill also requires the Department of Transportation to provide the necessary information to the Attorney General in any feasible form requested by the Attorney General. The bill authorizes the Attorney General to require the cooperation of the state radio broadcasting system to provide the access required by the bill.

Senate Bill No. 2047 provides that the Attorney General may not appoint a special assistant attorney general in a civil case in which the amount in controversy exceeds $150,000 and for which the special assistant attorney general is to be compensated by a contingent fee arrangement unless the arrangement is approved by the Emergency Commission.

Senate Bill No. 2086 removes from the membership of the child sexual abuse investigation and prosecution team a licensed social worker employed by the Attorney General.

Senate Bill No. 2003 increases the salary of the Attorney General from $64,464 to $65,753 through June 30, 2000; to $67,068 through December 31, 2000; and to $69,002 thereafter.

INDUSTRIAL COMMISSION

House Bill No. 1115 authorizes the Industrial Commission to arrange for the funding of a mill association renovation project through the issuance of evidences of indebtedness during the 1999-2001 biennium. The bill provides that the construction costs may not exceed $19,500,000. The bill provides that the principal and interest on the bonds are payable only from revenues of the Mill and Elevator Association and that the bonds do not constitute a debt of the state.

House Bill No. 1116 repeals a provision that specifically authorizes the Industrial Commission to provide for the confidentiality of trade secrets and certain commercial and financial information related to specific business transactions of the North Dakota Mill and Elevator or any export trading company with which the Mill and Elevator participates.

House Bill No. 1114 repeals the authorization of the Industrial Commission to act as a planning committee to negotiate and contract with the federal housing and home finance administrator for the development and construction of public works in the city of Riverdale.

Senate Bill No. 2062 authorizes a local housing authority, upon submission of written notice to the Industrial Commission, to elect to exercise the authority granted to the Industrial Commission and preempt the Industrial Commission from acting with regard to tenant-based housing certificates and vouchers or successor programs within the area of operation of that housing authority or to elect to enter an agreement with the Industrial Commission to accept, exercise, and administer any housing aid or assistance upon the terms and conditions agreed upon by the parties.

DEPARTMENT OF ECONOMIC DEVELOPMENT AND FINANCE

House Bill No. 1141 eliminates the requirement that the Department of Economic Development and Finance have a division of science and technology. The bill removes the requirement that the Department of Economic Development and Finance report annually regarding loan performance of the department including a comparison of dollars spent to the jobs created of all programs administered or supervised by the department and a review of the timeliness of loan processing practices. The bill requires the department to report to the Legislative Council annually on the performance of all divisions of the department including the amount of success and satisfaction the department has meeting business-client, economic-developer, and community-client needs and expectations. The bill provides that the report must include a comparison of dollars spent to the economic benefits created of all programs administered or

supervised by the department. The bill repeals the requirement that the department send an annual product listing of manufacturers located in the state to registered architects and engineers.

LEGISLATIVE COUNCIL

Senate Bill No. 2436 adds one senator and one representative to the membership of the Legislative Council effective January 1, 2001. The bill provides that the Speaker of the House shall appoint four members recommended by the majority leader and three members recommended by the minority leader and that the Lieutenant Governor shall appoint four members of the Senate recommended by the majority leader and two members recommended by the minority leader.

Senate Bill No. 2055 increases the compensation for members of the Legislative Assembly for attending sessions of the Legislative Council and its committees from $62.50 per day to $75 per day.

Senate Bill No. 2389 requires the Electric Industry Competition Committee to study statutes relating to the extension of electric lines and facilities and the provision of electric service by public utilities and rural electric cooperatives within and outside the corporate limits of a municipality, including the criteria used by the Public Service Commission in determining whether to grant a public utility a certificate of public convenience and necessity to extend its electric lines and facilities to serve customers outside the corporate limits of a municipality and the circumstances, if any, under which a rural electric cooperative may provide electric facilities and service to new customers and existing customers within municipalities being served totally or primarily by a public utility. The bill requires the Electric Industry Competition Committee to submit any recommendations and proposed legislation, if necessary, from the study to the 57th Legislative Assembly. The bill contains an expiration date of July 31, 2001.

Senate Bill No. 2208 requires the Employee Benefits Programs Committee to take jurisdiction over any measure or proposal that authorizes an automatic increase or other change in benefits beyond the ensuing biennium which would not require legislative approval. The bill requires the committee to include in the committee's report a statement that the proposal would allow future changes without legislative involvement.

Senate Bill No. 2044 requires the Legislative Council to appoint, during each biennium, an Information Technology Committee consisting of four member of the House of Representatives and three members of the Senate. The bill provides that the chief information officer of the state is an ex officio, nonvoting member of the committee. The bill authorizes the Information Technology Committee to review any information technology project or information technology plan, and provides that if the committee determines that the project or plan is at risk of failing to achieve its intended results, the committee may recommend to the Office of Management and Budget the suspension of the expenditure of moneys appropriated for the project or plan. The bill authorizes the Office of Management and Budget to suspend the expenditure authority if the office agrees with the recommendation of the committee. The bill requires the Information Technology Committee to review the business plan of the Information Technology Department, address macro-level questions relating to the Information Technology Department, review the activities of the Information Technology Department, review statewide information technology standards, review the statewide information technology plan, review the cost-benefit analysis of any major information technology project of an executive or judicial branch agency, and perform periodic reviews to ensure that a major information technology project is on its projected schedule and within its cost projections. The bill requires the committee to receive a report from the chief information officer of the state at each meeting of the committee, to conduct studies of

information technology efficiency and security, and to make recommendations regarding established or proposed information technology programs and information technology acquisition by the executive and judicial branches.

Senate Bill No. 2010 requires the chairman of the Legislative Council, in consultation with the Insurance Commissioner, to appoint two members of the House of Representatives and two members of the Senate to represent the state at functions of the National Conference of Insurance Legislators. The bill provides that each member is to serve a two-year term and if a member is unable to complete a term, the chairman of the Legislative Council shall appoint another member to complete the term. The bill requires the Insurance Commissioner to pay the necessary expenses of the legislative members for attending functions of the National Conference of Insurance Legislators.

Senate Bill No. 2028 repeals the local government efficiency planning grant program administered by the Advisory Commission on Intergovernmental Relations.

AGREEMENTS BETWEEN PUBLIC AGENCIES AND INDIAN TRIBES

Senate Bill No. 2294 provides that the provisions of North Dakota Century Code Chapter 54-40.2, which authorizes agreements between Indian tribes and state and political subdivisions, do not affect the validity of any agreement entered between a tribe and a public agency before August 1, 1999. For the purposes of that chapter, the bill excludes from the definition of "tribal government" any entity owned, organized, or chartered by a tribe which exists as a separate entity authorized by a tribe to enter agreements of any kind without further approval by the government of the tribe. The bill further provides that the statutory authorization to enter agreements does not apply to agreements entered with one or more tribal governments pursuant to a state or federally funded program or other activity, including any publicly announced offer of a grant, loan, request for proposal, bid, or other contract originating with a public agency, for which the tribal government is otherwise eligible under federal, state, or local law.

COUNTY-CITY HOME RULE

House Bill No. 1275 removes the requirement that a copy of a county-city home rule charter be filed with the clerk of district court and requires that a copy be filed with the register of deeds unless the Board of County Commissioners designates a different official.

OFFICE OF MANAGEMENT AND BUDGET

House Bill No. 1475 requires of the Office of Management and Budget to account for and monitor all funds received by the state from tobacco settlement dollars and all associated settlements and related funds and to report to the Budget Section of the Legislative Council on the status of those funds, settlements, offsets, and net-resulting revenues. The bill establishes in the state treasury a tobacco settlement trust fund into which must be deposited all moneys received by the state pursuant to the master settlement agreement and consent agreement adopted by the East Central Judicial District Court in its judgment entered December 28, 1998. The bill requires interest earned on the fund to be credited to the fund and deposited in the fund. The bill provides that 10 percent of total annual transfers from the tobacco settlement trust fund must be transferred to the community health trust fund administered by the State Department of Health to be used for community-based public health programs and other public health programs; 45 percent of the total annual transfers from the tobacco settlement trust fund must be transferred to the common schools trust fund to become part of the principal of that fund; and 45 percent of the total annual transfers from the tobacco settlement trust fund must be transferred to the water development trust fund to be used to address the long-term water development and management needs of the state. The bill provides that during each biennium

transfers that would be made to the common schools trust from the tobacco settlement trust fund must instead be transferred to the water development trust fund until the State Water Commission certifies to the State Treasurer that the deposits in the water development trust fund during that biennium are sufficient to pay the principal and interest for the biennium on bonds authorized under Section 61-02.1-01. The bill provides that when that certification is received, the State Treasurer shall determine the amount deposited in the water development trust fund during that biennium and transfers that would be made to the water development trust fund must instead be transferred to the common schools trust fund until deposits in the common schools trust fund during that biennium are equal to the amount deposited in the water development trust fund during that biennium or until the end of the biennium, whichever occurs first.

Senate Bill No. 2043 establishes an Information Technology Department to be responsible for all wide area network services planning, selection, and implementation for all state agencies, including institutions under the control of the State Board of Higher Education, counties, cities, and school districts in the state. The bill requires the Governor to appoint the chief information officer of the state to administer the department. The bill requires the department to develop and maintain a business plan; to provide, supervise, and regulate information technology of all executive branch state entities; to provide network services; to provide information technology to the executive, legislative, and judicial branches; to study emerging technology and evaluate its impact on the state's system of information technology; to review the information technology management of executive branch agencies; and to develop guidelines for reports to be provided by each executive branch agency and agencies of the judicial and legislative branches on information technology in those entities. The bill establishes a statewide wide area network committee consisting of the chief information officer, the state court administrator, the commissioner of higher education, and nine members appointed by the Governor. The bill requires each state agency and institution that desires access to wide area network services and each county, city, or school district that desires access to wide area network services to transmit voice, data, or video outside that county, city, or school district to obtain those services from the Information Technology Department. The bill authorizes the chief information officer to exempt counties, cities, or school districts from the requirement that they obtain wide area network services from the department if they can demonstrate a more cost-effective approach. The bill requires each agency or institution to appoint an information technology coordinator and requires each executive branch agency to prepare an information technology plan. The bill establishes a state information technology operating account in the state treasury to be used for procuring and maintaining information technology, network services, and central microfilm unit equipment and supplies, and for providing information technology, network services, and central microfilm unit services to state entities and network services to users of the state network. The bill removes the requirements that the Legislative Council study emerging technology, develop guidelines on information technology, review the information technology management of state entities, perform information systems reviews and audits, and monitor the implementation of information technology systems development projects. The bill requires the chief information officer of the state to serve as the state forms manager and the state records administrator. The bill replaces references to the Information Services Division with the Information Technology Department.

Senate Bill No. 2111 provides that funds in the state personnel training and development operating fund are appropriated on a continuing basis to the Office of Management and Budget and may be spent for the coordination of employee training and career development data, supplies, equipment, and services.

Senate Bill No. 2015 provides that all proceeds received from the transfer or sale of state surplus property must be deposited in the surplus property operating fund. The bill requires the Office of Management and Budget to transfer to the agency from which the property was received an amount equal to the proceeds of the sale less the administrative expenses of the sale, and requires the agency to deposit the proceeds into the fund from which the property was originally purchased. The bill repeals a provision that would have taken effect July 1, 1999, which would have required that any amount in the state general fund in excess of $45 million at the end of any biennium must be transferred to the budget stabilization fund. The bill makes permanent a provision that would have expired June 30, 1999, which provides that any amount in the state general fund in excess of $65 million at the end of any biennium must be transferred to the budget stabilization fund. The bill requires State Radio Communications to establish and charge fees to provide mobile data terminal service to interested local law enforcement agencies and to charge at least 20 cents per telephone for 911 services provided to political subdivisions. The bill requires each county currently receiving 911 services from State Radio Communications to abide by the standards established by the Governor's Emergency Services Advisory Committee. The bill allows the Emergency Commission to authorize acceptance and disbursement of certain federal funds and the acceptance and expenditures of money from grants, gifts, donations, and other sources not otherwise appropriated by the Legislative Assembly if the amount under consideration is $50,000 or less. The bill maintains the requirement for Budget Section approval if the amount under consideration exceeds $50,000. The bill authorizes the State Treasurer to appoint agents for the purpose of receiving public funds and provides that if appointed by the State Treasurer, the Bank of North Dakota shall serve as an agent of the State Treasurer for the purpose of receiving public funds. The bill also provides that if a state agency enters a contract with a collection or credit agency to collect money due the state, the fees for services, reimbursement, or other remuneration to the collection or credit agency must be based on the amount of money actually collected.

House Bill No. 1046 requires the director of the budget to include in the budget data compiled by the director a list of every service with a value of at least $50,000 and every group of services comprising a single system with a combined value of at least $50,000 acquired through debt financing arrangements.

Senate Bill No. 2013 provides that appropriations to the Department of Public Instruction for foundation aid, transportation aid, and special education aid may not be allotted to the extent that the allotment can be offset by transfers from the foundation aid stabilization fund in the event that the director of the budget is required to exercise budget allotments.

Senate Bill No. 2291 expands the exemption from the state classified service to all employees of the institutions of higher education under the control of the State Board of Higher Education rather than only officers and members of the teaching staff.

House Bill No. 1019 exempts from the state classified service officers and employees of the Department of Economic Development and Finance.

House Bill No. 1171 removes from the State Personnel Board a member appointed by the State Board of Higher Education and includes on the board one member with a professional human resource background appointed by the Governor. The bill removes the requirement that each member of the board elected by classified employees must be a resident of the state for at least 60 days and must be known to be in sympathy with the application of merit principles to public employment. The bill requires the designated personnel officer of each agency or department to certify to the agency elected or appointed chief officer that each person holding a position in the classified service authorized for payment through payroll has been classified in

accordance with statutory classification requirements and the rules and orders adopted pursuant to those requirements and that the rate of pay is within established current salary ranges or excepted from the ranges by written authorization by the director. The bill provides that the Office of Administrative Hearings and the Central Personnel Division may not be named as a party to an appeal of a grievance unless an employee of one of those entities is involved in the grievance.

House Bill No. 1170 requires the director of the Office of Management and Budget to make purchases for the State Radio Broadcasting System and the Information Services Division according to the state purchasing practices requirements. The bill repeals the requirement that the Office of Management and Budget make all purchases on behalf of state entities in accordance with the standards and specifications of the United States Bureau of Standards. The bill replaces references to the state purchasing and printing agent with the Office of Management and Budget. The bill authorizes the director of the Office of Management and Budget to purchase available federal property under applicable federal property management regulations for distribution to public agencies. The bill authorizes political subdivisions to provide surplus property to the Office of Management and Budget for disposition. The bill removes the prohibition on state departments, agencies, or institutions from exchanging items as part of a purchase price of new items without a detailed statement of the value of items to be exchanged and approval from the Office of Management and Budget. The bill requires every person that desires to bid or submit a proposal on contracts with the state to be an approved vendor to receive a request for bids or proposals. The bill requires a person to file an application with the Office of Management and Budget to become an approved vendor. The bill authorizes the Office of Management and Budget to make multiple awards for term commodity contracts when it determines that a multiple award is to be in the best interest of the state. The bill removes the requirement that garbage can liners purchased by the Office of Management and Budget and other state entities be starch-based and removes the requirement beginning January 1, 2000, that at least 80 percent of the total volume of paper and paper products purchased by the Office of Management and Budget and other state agencies contain at least 25 percent recycled material. The bill declared the provisions relating to the Office of Management and Budget making multiple awards for term commodity contracts an emergency measure and that provision became effective on March 29, 1999.

Senate Bill No. 2179 changes the name of the Office of Intergovernmental Assistance to the Division of Community Services effective August 1, 1999.

Senate Bill No. 2312 establishes a state facility energy improvement program and authorizes the state building authority to issue evidences of indebtedness to implement the program. The bill requires the Office of Intergovernmental Assistance to inform all state agencies and institutions of the state facility energy improvement program and work with interested agencies and institutions to identify potential state facility energy improvement programs and select facilities for indepth energy audits designed to provide information on project costs along with estimated energy savings from implementation of those projects. The bill requires the Governor to include in the executive budget recommendation for each state agency or institution participating in the state facility energy improvement program an estimate of the annual energy cost-savings expected for that agency, and, if needed, a projection of the debt service on program bonds that is apportioned to the agency.

Senate Bill No. 2411 allows the state records administrator to enter contracts with private contractors or require an agency to use the services of a contractor if the administrator and the Office of Management and Budget determine that microfilm services can be provided more efficiently and economically through private contractors. The bill prohibits a contractor hired by

the administrator from disclosing any information from any record, disclosing any record the contractor receives for microfilming services, or making or retaining a copy or other reproduction of a record not required by the contract to be made. The bill also provides that a contractor hired by the administrator is subject to the penalties provided by law for unauthorized release of public records, and the contractor must agree to fully comply with all applicable state or federal laws or rules prohibiting release of public records.

House Bill No. 1188 replaces references to certificated teachers with licensed teachers with respect to exemptions from the state classified service and the definition of employee under the Public Employees Retirement System.

COMMUNICATIONS IMPAIRED TELECOMMUNICATIONS SERVICES

House Bill No. 1122 defines, for the purposes of administration of the program for telecommunications services for communications-impaired persons, the term "disadvantaged" as residing in a household that has a median income not more than the applicable median income in the state, including residing in a household that has a median income not more than 150 percent of the applicable median income in the state if the resident is deaf. The bill includes within the definition of "communications impaired" an individual mobility impaired so as to be unable to use a telephone readily purchased from a retail store. The bill removes references to the Vocational Rehabilitation Division of the Department of Human Services and replaces those references with the Department of Human Services.

PUBLIC EMPLOYEES RETIREMENT SYSTEM

House Bill No. 1071 increases retirement benefits for Supreme Court or district court judges who, on December 31, 1999, are receiving normal retirement benefits by two percent of the individual's present benefits with the increase payable beginning January 1, 2000. The bill also provides that a Supreme Court or district court judge who, on December 31, 2000, is receiving normal retirement benefits is entitled to receive an increase in benefits equal to two percent of the individual's present benefits with the increase payable beginning January 1, 2001. The bill provides that disability retirement benefits for Supreme Court and district court judges are 70 percent of final average salary reduced by the member's primary Social Security benefits and by any workers' compensation benefits paid. The bill provides that if a Supreme Court or district court judge dies after completing five years of eligible employment, the surviving spouse may select either a lump sum payment of the member's retirement account as of the date of death or payments calculated for the deceased member as if the member was of normal retirement age at the date of death, payable until the spouse dies. The bill was declared to be an emergency measure and became effective March 25, 1999.

House Bill No. 1069 allows employers to pay Public Employees Retirement System employee contributions for the Old-Age and Survivors' Insurance levy authorized by Section 57-15-28.1(5).

Senate Bill No. 2071 includes vested employer contributions for purposes of determining a member's account balance under the Public Employees Retirement System; reduces the vesting requirement from five years to three years for nonjudge members of the Public Employees Retirement System main system; increases the benefit multiplier from 1.77 percent to 1.89 percent; provides that the fund may accept rollovers from other qualified plans for the purchase of additional service credit; provides a postretirement adjustment of eight percent of the present benefit; provides a disability adjustment of eight percent of the present benefit; provides a prior service adjustment of eight percent of the present benefit; provides that a nonjudge member's account balance includes vested employer contributions equal to the member's contributions to the deferred compensation plan of $25 or one percent of the member's monthly salary for months 1 through 12 of service credit, $25 or two percent of the

member's monthly salary for months 13 through 24 of service credit, $25 or three percent of the member's monthly salary for months 25 through 36 of service credit, and $25 or four percent of the member's monthly salary for service exceeding 36 months with a minimum contribution of $25 and a maximum vested employer contribution of four percent of the member's monthly salary. The bill appropriates $87,181 to the Public Employees Retirement System to administer the provisions of the bill and authorizes one additional full-time equivalent position for the Public Employees Retirement System for the biennium. The provisions relating to the vesting of employer contributions become effective on January 1, 2000.

Senate Bill No. 2072 provides that the rate for a non-Medicare retiree single plan under the Public Employees Retirement System uniform group insurance program is 150 percent of the active member's plan rate; provides that the rate for a non-Medicare retiree family plan of two people is twice the non-Medicare retiree single plan rate; and provides that the rate for a non-Medicare retiree family plan of three or more persons is 2.5 times the non-Medicare retiree single plan rate for purposes of determining health insurance premiums for retired public employees not eligible for Medicare.

House Bill No. 1297 reduces the minimum age from 50 to 40 at which the Public Employees Retirement System uniform group health insurance health plan must provide coverage for a yearly mammogram examination for women.

House Bill No. 1452 requires the Public Employees Retirement System to provide medical benefits coverage under its uniform group health insurance plan for dental anesthesia and hospitalization provided to a covered individual who is a child under age 9, is severely disabled, or who has a medical condition and requires hospitalization or general anesthesia for dental care treatment.

Senate Bill No. 2374 requires the Public Employees Retirement System to provide medical benefits coverage under its uniform group health insurance plan for foods and food products for inherited metabolic diseases determined by a physician to be medically necessary for the therapeutic treatment of an inherited metabolic disease.

House Bill No. 1257 establishes a defined contribution retirement plan for certain nonclassified state employees under which participating members may direct the investment of their accumulated employer and employee contributions and earnings to one or more investment choices within available categories of investment provided by the Public Employees Retirement System Board. The bill provides that a participating member is immediately 100 percent vested in that member's contributions and vests in 50 percent of the employer's contributions upon completion of two years of service, 75 percent of the employer's contributions upon completion of three years of service, and 100 percent of the employer's contributions upon completion of four years of service. The bill appropriates $197,000 of funds in the administrative expense account and the payroll clearing account to the Public Employees Retirement System Board for the purpose of administering the defined contribution retirement plan and for consulting expenses.

Senate Bill No. 2045 changes a statutory reference in the Public Employees Retirement System law which relates to a new chapter in the public health law.

COMMISSION ON UNIFORM STATE LAWS

Senate Bill No. 2152 requires the state to provide reimbursement for a member of the Commission on Uniform State Laws who has been appointed by virtue of having served five years on the commission and who has served at least 20 years in the Legislative Assembly.

CHILDREN'S SERVICES COORDINATING COMMITTEE

House Bill No. 1014 prohibits the Children's Services Coordinating Committee from maintaining an unobligated operating fund balance, excluding income received during the final 30 days of each fiscal year, which exceeds $50,000 or 20 percent of the annual income allocated for its administrative costs and statewide grants, whichever is less, at the end of each fiscal year.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 55
State Historical Society and State Parks
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 55. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

Senate Bill No. 2082 repeals the North Dakota senior citizens' passport and authorizes the director of the Parks and Recreation Department to provide a discount on the sale of annual permits to residents of the state who are 65 years of age or older and who apply for a discount. The bill also increases park entrance fees from $20 to $25 and increases the fee for three-day park entrance permits from $3 to $4.

Senate Bill No. 2264 provides that if a state agency objects to a decision of the State Historical Board to disallow alteration or demolition of a site listed on the State Historical Sites Registry, the state agency may submit the objection to arbitration. The bill provides that the objecting party, including cities, counties, school districts, and other political subdivisions, must submit the demand for arbitration within 90 days of the decision by the State Historical Board and that a state agency may select its arbitrators from its officers or employees.

House Bill No. 1208 transfers supervision of the International Peace Garden from the State Historical Board to the Parks and Recreation Department. This bill becomes effective July 1, 1999.

Senate Bill No. 2360 deletes the bond requirement for the superintendent of the State Historical Society.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 57
Taxation
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 57. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

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

PROPERTY TAXES

House Bill No. 1053 allows beginning farmers to qualify for the farm residence property tax exemption. Previous law required a history of farm income to qualify for the exemption, which would exclude new farmers. The bill defines a beginning farmer as one who has begun occupancy of a farm within the three preceding calendar years, who normally devotes the majority of time to farming activities, and who does not have a history of farm income for each of the three preceding calendar years.

House Bill No. 1054 eliminates in farm buildings property tax exemption decisions consideration of the criteria established in 1977 by the North Dakota Supreme Court--whether the farmer grows or purchases feed for animals, whether the farmer owns the animals, whether replacement animals are produced on the farm, and whether the farmer is engaged in contract feeding of animals. The bill provides that buildings are not eligible for the exemption if they are primarily used for processing to produce a value-added physical or chemical change in an agricultural commodity beyond the ordinary handling of that commodity by a farmer prior to sale.

House Bill No. 1363 makes an adjustment in net income from farming activities as used as a measure to qualify for the farm buildings property tax exemption by allowing the farmer to add back depreciation expenses from farming activities which are deducted in computing federal taxable income.

House Bill No. 1351 allows an adult day care center to qualify for the property tax exemption that may be granted by the governing body of the city or county, in the same manner child day care facilities may be exempted.

House Bill No. 1052 increases by $500 each of the annual income limitations to qualify for the homestead property tax credit for persons 65 years of age or older or who are permanently and totally disabled. This change increases the maximum income to qualify for the credit to $14,000.

House Bill No. 1055 relieves assessors of the duty of valuing farm buildings or farm residences that are exempt from property taxes by law.

House Bill No. 1271 provides for confidentiality of information provided to assessment officials by the owner or occupant of commercial property with regard to income and expenses of the property.

Senate Bill No. 2052 creates a new category of agricultural property for inundated agricultural land. "Inundated agricultural land" is defined as property classified as agricultural property which is inundated to an extent making it unsuitable for growing crops or grazing farm animals for a full growing season or more. Before all or part of a parcel of property may be classified as inundated agricultural, the Board of County Commissioners must approve that classification for that property for the taxable year. The agricultural value of inundated agricultural lands for assessment purposes must be established at 10 percent of the average agricultural value of noncropland for the county as determined under the agricultural property valuation formula. Valuation of individual parcels of inundated agricultural land may recognize the probability that the property will be suitable for agricultural production as cropland or for grazing farm animals in the future.

Senate Bill No. 2054 adjusts the agricultural property valuation formula for property tax purposes by requiring inclusion of computations based on changes in the index of prices paid by farmers as compiled by the national agricultural statistics service. The bill requires statistics on prices paid by farmers to be gathered for the same years for which annual gross returns for farm land statistics are used in the formula.

House Bill No. 1456 allows an addition to a residential or commercial building to qualify for the property tax exemption for building improvements and extends from three years to five years the time for which the city or county governing body may grant an exemption for building improvements.

Senate Bill No. 2100 removes a duplicate provision from the formula used to determine the maximum amount a political subdivision may levy in dollars.

Senate Bill No. 2382 increases from one mill to two mills the maximum amount that may be levied by a city or county for senior citizen programs. The bill provides that the levy for senior citizen programs may not be increased to more than one mill unless approved by a majority of the electors of the county or city voting on the question.

Senate Bill No. 2358 allows counties to levy a property tax of up to five mills, which must be within the 30-mill levy limit for OASIS, Social Security, or retirement, and the five-mill levy may be used for county automation and telecommunications resources.

House Bill No. 1196 allows school districts to levy up to 10 mills in property taxes for support of alternative education programs. The 10 mill maximum must fit within the 15-mill levy limitation allowed for asbestos abatement.

Senate Bill No. 2162 allows school districts to levy up to five mills, within the 15-mill limit for asbestos abatement, and to use the five-mill levy for remodeling required to meet specifications set under the Americans with Disabilities Act or remodeling to meet requirements set by the State Fire Marshal.

House Bill No. 1446 allows the Board of County Commissioners to continue to levy the amount in dollars for a township that has become unorganized that the township would have been entitled to levy if the township had remained organized.

House Bill No. 1275 replaces the clerk of district court with the register of deeds, or a different official designated by the Board of County Commissioners, for receipt of an undertaking for payment of personal property taxes or receipt of a notice of delinquent taxes with regard to a tax debtor who has moved to the county.

House Bill No. 1342 expands the allowable abatement for damaged property to cover damage from any natural disaster rather than the previous limitation of damage by fire, flood, or tornado.

Senate Bill No. 2246 removes the requirement of providing a property tax payment receipt to the taxpayer and allows the Board of County Commissioners an option of whether the county treasurer shall provide a duplicate receipt to the county auditor for property tax payments. The bill requires the real estate tax statement to be provided in a manner that allows the taxpayer to retain a printed record of the obligation for payment of taxes and special assessments.

Senate Bill No. 2334 makes extensive revision of laws relating to delinquent property taxes. The bill eliminates the annual tax sale, tax sale certificates, and subsequent tax sale certificates. The bill changes the notice of the expiration of the period of redemption for property sold at the tax sale to a notice of foreclosure of tax lien. The bill makes county title to property marketable if acquired through foreclosure of tax lien and the same requirements that must be met by cities apply to the acquisition of title by the county. The bill does not reduce the time property tax may be delinquent before the property is lost by the taxpayer.

House Bill No. 1044 makes corrections of twentieth century statutory references contained in several statutory forms relating to property tax collection and administration.

House Bill No. 1117 eliminates the requirement of providing a copy to the Office of Management and Budget of county cancellation of property taxes and special assessments.

House Bill No. 1492 allows a city to grant property tax exemptions for property in a "renaissance zone." The bill is summarized in the Income Taxes section of this memorandum.

SALES TAXES

House Bill No. 1487 and Senate Bill No. 2217 provide identical reductions from three percent to 1.5 percent in the sales and use tax rate for sales of used farm machinery, farm machinery repair parts, and used irrigation equipment used exclusively for agricultural purposes. For purposes of machinery and equipment, "used" is defined as having been subject to sales or use tax on a previous sale, having originally been purchased outside the state and previously owned by a farmer, or having been under lease or rental for three years or more. The reduced tax rate is effective for taxable sales occurring from May 1, 1999, through June 30, 2001.

Senate Bill No. 2421 extends the sales tax exemption for manufacturing or recycling machinery and equipment to extend to machinery and equipment used in the refining of crude oil. The exemption will apply for taxable events occurring from February 1, 1999, through July 31, 2002.

Senate Bill No. 2104 provides that in the event of a business reorganization in which the ownership remains in the same person, taxable sales of the preexisting business are to be used to determine whether the taxpayer will be required to file monthly returns.

Senate Bill No. 2099 provides for personal liability of corporate officers and limited liability company governors or managers who are responsible for supervision of preparing and submitting sales and use tax returns and payments.

Senate Bill No. 2105 provides that allocations from the state aid distribution fund after December 31, 1998, must be made according to the revised state aid distribution fund formula enacted in 1997.

House Bill No. 1110 allows the motor vehicle excise tax exemption to apply to leased motor vehicles of a disabled veteran, permanently physically disabled individual, or parochial private nonprofit school.

House Bill No. 1111 allows a motor vehicle excise tax exemption for transfers of motor vehicles in a business reorganization, but only if the title transfer is completed within 180 days after the date of the reorganization.

House Bill No. 1216 allows registration of low-speed vehicles and provides that low-speed vehicles are subject to motor vehicle excise taxes.

INCOME TAXES

Senate Bill No. 2009 provides an income tax deduction for any indemnity received for destruction of cattle infected or suspected of being infected with bovine tuberculosis.

House Bill No. 1474 adjusts income limitations under the income tax credit for expenses of caring for family members at home. The income limitation for the individual receiving care is increased from $15,000 to $20,000 for a single individual and from $30,000 to $35,000 for a married individual, including consideration of the individual's spouse's income. The bill expands the limit on the income of the taxpayer claiming the credit and providing the care. The law previously began reducing the credit for care providers having taxable income of $25,000 but the bill increases this amount to $35,000 for a joint return. The 30 percent of qualified expenses credit is reduced by one percentage point for each $2,000 of income exceeding $25,000, or $35,000 for a joint return. In addition, the dollar-for-dollar reduction for taxable income exceeding $50,000 is increased to apply beginning at $70,000 for a joint return. The bill also allows the Tax Commissioner to waive secrecy provisions regarding income tax returns to the extent necessary to advise taxpayers of how prorating of the family care credit should have been computed by family members providing shares of care expenses.

House Bill No. 1106 corrects a reference to an offer in compromise and eliminates an obsolete reference in the income tax law to the Myron G. Nelson Fund, Inc.

House Bill No. 1307 adds to the eligible claimant agencies for setoff of income tax refunds the state housing finance agency or a local housing authority. The bill requires local housing authorities to elect one of their number to act as the claimant agency on behalf of all housing authorities for purposes of submitting claims to the Tax Commissioner.

House Bill No. 1113 rewrites the definition of "federal income tax liability" for the starting point on the state optional short-form income tax return. The revisions address changes to federal law and federal tax forms including special capital gain tax rates, new income averaging rules for farmers, and new income tax credits. The revisions eliminate an obsolete adjustment for investment tax credit against federal alternative minimum tax and make adjustments for lump sum distributions, tax on excess contributions to an individual retirement account, and tax on excess accumulations in certain retirement accounts for nonresident filers.

House Bill No. 1492 allows establishment of "renaissance zones" in cities. The bill provides an individual taxpayer, who purchases single-family residential property as a primary residence as part of a zone project, with an exemption from up to $10,000 of personal income tax liability on the long-form or short-form return for five years beginning with the date of occupancy. A business that purchases or leases property for a business purpose as part of a zone project is exempt from income tax for five taxable years for income derived from the business locations within the renaissance zone. An individual, partnership, limited partnership, limited liability

company, trust, or corporation that purchases residential or commercial property as an investment as part of a zone project is exempt from income tax for five taxable years for income earned from the investment. A historic preservation and renovation tax credit is provided against financial institutions taxes, corporate income taxes, and individual income taxes on the long-form or short-form return for investments in historic preservation and renovation of property in the renaissance zone during the years 2000 through 2004. The credit for historic preservation and renovation is 50 percent of the amount invested and any excess credit may be carried forward for up to five taxable years. The bill provides a credit against state tax liability for financial institutions, corporate income taxes, and individual long-form or short-form returns for investments in a renaissance fund corporation. The credit is equal to 50 percent of the amount invested and excess credit may be carried forward for up to five taxable years. The total amount of credits for investments in renaissance fund corporations in the state may not exceed an aggregate of $2.5 million for all taxpayers for all taxable years. The bill allows a city to grant a property tax exemption for single-family residential property in a renaissance zone purchased by an individual as a primary place of residence. The exemption may not exceed five taxable years after the date of acquisition. A city may grant a partial or complete exemption for a building purchased by a business for a business purpose as part of a renaissance zone project. The exemption may not exceed five taxable years. A city may grant a partial or complete exemption for up to five taxable years from property taxes for buildings and improvements to residential or commercial property in a zone project purchased solely for investment purposes.

Senate Bill No. 2102 increases interest payments on overpayments of income tax from a rate of 10 percent per year to a rate of one percent per month.

House Bill No. 1112 eliminates the requirement of posting a bond for income tax withholding by an employer who has not continuously maintained a domicile in this state for a period of one full year and makes it optional for the Tax Commissioner to require a bond from such an employer.

FUELS TAXES

Senate Bill No. 2177 is a substantial revision of the fuels tax laws. The majority of the bill consists of technical changes relating to tax administration (and is intended to remove obsolete language, harmonize and clarify provisions, and add provisions lacking in previous law). The bill creates a tax credit or refund for a reseller of fuel when the fuel is resold to a federal agency, which was previously primarily handled by credit cards issued by major oil companies who made adjustments to cover these transactions. Changes were necessary to address independent credit card companies, who are unable to shift adjustments to local fuel sellers. The bill creates a requirement of licensing for fuel terminal operators and establishes a filing requirement for reports to allow the Tax Commissioner to track fuel disbursements. The bill changes deposit of motor vehicle fuel license fees from the state general fund to the highway tax distribution fund (to be consistent with the constitutional provision requiring motor fuel license fees to be used only for highway purposes). The bill establishes requirements that importers and exporters of fuel for resale must supply proof that they are licensed in the jurisdiction that is the source of imports or the destination of exports. The bill creates a requirement that carriers hauling fuel must be licensed, retain records, be subject to audit, and report diverted loads. The provisions do not apply to fuel businesses hauling their own fuel with their own vehicles. The bill creates a penalty and interest requirement for delinquent aviation fuel taxes, which was not in previous law. The bill makes changes in licensing and reporting requirements for interstate motor carriers to be compatible with the international fuel tax agreement.

House Bill No. 1130 eliminates the expiration date on the 20 cents per gallon tax rate for motor vehicle and special fuels, which was scheduled to revert to a 17 cents per gallon rate July 1, 2000.

House Bill No. 1183 increases the rate of motor vehicle fuels and special fuels taxes from 20 cents to 21 cents per gallon July 1, 1999.

House Bill No. 1462 reduces the shrinkage allowance for fuel suppliers, distributors, and retailers from a maximum of one percent to a maximum of .5 percent. The bill eliminates refunds of special fuels taxes for nonhighway purposes and initiates a "buy right" provision under which nonhighway users must buy and use dyed special fuel, which is subject to the reduced rate of two percent. The bill creates administrative fees for the owner or operator of a licensed motor vehicle found to contain dyed special fuel and which is being used on a highway. The administrative fees range from $250 for the first violation to $5,000 for a fourth and subsequent violation occurring within three years. Citations for unlawful use of dyed fuel on highways are to be issued by the Highway Patrol and collected by the Tax Commissioner. The Tax Commissioner may waive the administrative fees for good cause.

House Bill No. 1019 extends for two years, through December 31, 2001, an additional one cent per gallon withheld from agricultural purpose fuel tax refunds and retained in the highway tax distribution fund.

TELECOMMUNICATIONS TAXES

Senate Bill No. 2015 amends several provisions of the telecommunications carrier gross receipts tax laws to provide for audit, appeal, assessment, and refund similar to laws for other types of taxes. The bill allows taxpayers six months to bring a district court challenge to an assessment made by the State Board of Equalization. The bill eliminates the taxable status of a hospital, hotel, motel, or similar place of temporary accommodation selling telecommunications service to patients or guests. The bill requires a telecommunications carrier to identify revenue receipts from other carriers to assist the Tax Commissioner in identifying all telecommunications service resellers doing business in the state. The bill requires a telecommunications carrier that provides service to pay telephones owned by other companies to provide a list of those pay telephone companies to the Tax Commissioner. The bill eliminates a requirement for notice of tentative assessment of telecommunications carrier gross receipts taxes. The bill provides for excusing payments of a tax liability of less than $5.

House Bill No. 1108 (vetoed) contained the same provisions amending telecommunications carrier gross receipts tax laws that ultimately were passed in Senate Bill No. 2015 plus a provision to make clear that Internet access service or similar service would be included in the definition of "telecommunications service" subject to the gross receipts tax. This bill was vetoed by the Governor, who expressed objection to inclusion of Internet access service in taxable telecommunications service.

Senate Bill No. 2101 provides that the $8.4 million per taxable year of net telecommunications carrier gross receipts tax revenues allocated to political subdivisions under 1997 amendments to North Dakota Century Code Section 57-34-05 must be deposited in a special fund in the state treasury and any excess amount must be deposited in the state general fund. The bill provides that by March 1 of each year the Tax Commissioner shall certify for payment to the State Treasurer the amount due to each county from telecommunications carrier gross receipts taxes.

Senate Bill No. 2318 provides that a city or county that desires to increase the rate of a previously approved excise tax on telephone access lines for emergency 911 service must present a new ballot question regarding the proposed increase and obtain approval of a majority of electors voting on the question.

Senate Bill No. 2307 (vetoed) would have imposed a fee of 40 cents per month on each commercial mobile radio service (cellular and other wireless service) telephone service number in the state. Twenty-five cents per month of the fee would have been allocated to political subdivisions operating a public safety answering point (911 service) in equal shares. Remaining revenues would have been allocated among political subdivisions operating the emergency services communication system based on the proportion of state population served but these revenues would have been required to be held in escrow until the recipient political subdivision began implementation of Phase I or Phase II of enhanced 911 wireless service as defined by the Federal Communications Commission. The bill would have established an Enhanced 911 Wireless Service Planning Committee, with the directive of developing proposed legislation for implementation of a statewide plan regarding enhanced 911 wireless service and fees, administration, and allocation of revenues. This bill was vetoed by the Governor.

ENERGY TAXES

House Bill No. 1454 changes the rate of sales tax for coal not subject to the coal severance tax from six cents per million British thermal units to 75 cents per ton. The bill also repeals the coal severance tax refund for coal burned in small boilers, effective July 1, 2003.

House Bill No. 1203 changes the allocation of oil and gas gross production taxes from unidentified sources from being allocated to the county with the least production tax revenues to being allocated among all counties in the same proportion that total gross production tax revenues are allocated.

House Bill No. 1107 provides that oil and gas gross production tax is not collected or refunded if the amount to be collected or refunded is less than $5. The bill also substitutes the Office of Management and Budget for the State Auditor to receive and pay oil and gas gross production tax refund claims.

FINANCIAL INSTITUTIONS TAXES

House Bill No. 1383 allows a financial institution or group of financial institutions to establish a corporation or limited company to operate a housing development fund. The bill allows a credit against a financial institution's taxes equal to the difference between the participating financial institution's share of interest earned on a loan from the fund and the amount the institution would have earned by applying an interest rate of 300 basis points more than a comparable treasury security rate. Aggregate credits for all financial institutions are limited to $750,000 per calendar year. Credit claimed for projects within each county must be identified and the county share of allocations of financial institution taxes is to be proportionately reduced.

TOBACCO TAXES

House Bill No. 1082 increases the minimum number of cigarettes that must be contained in a package sold or distributed in this state from five to 20. The bill creates a minimum of 0.60 ounces of tobacco for packages for roll-your-own tobacco sold or distributed in this state. The bill prohibits a dealer, distributor, or other person from selling or distributing in this state any tobacco product previously exported from the United States.

Senate Bill No. 2103 eliminates the requirement of a special stamp to be affixed to a package of cigarettes not subject to tobacco tax because it is sold to an enrolled tribal member. The bill changes the due date for tobacco tax returns from the 10th to the 15th day of the month following the end of a calendar quarter or month, depending on which filing schedule the licensee must follow. Penalties and interest are made uniform under the tobacco products tax at five percent of tax due or $5, whichever is greater, plus interest of one percent per month.

MISCELLANEOUS

Senate Bill No. 2006 increases the salary of the State Tax Commissioner from $55,464 to $58,262 beginning July 1, 1999; $59,428 beginning July 1, 2000; and $66,282 beginning January 1, 2001. The bill also provides a standing appropriation to the Tax Commissioner for payment of fees due under a contract with a collection or credit agency.

Senate Bill No. 2155 provides that if the corporate officers or governors or managers of a limited liability company elect not to be personally liable for state taxes, the corporation or limited liability company must make a cash deposit or post with the Tax Commissioner a bond or undertaking equal to the estimated annual tax liability of the corporation or limited liability company. This provision was added under the tobacco products tax, income tax, sales and use tax, motor vehicle fuel tax, and special fuel tax.

House Bill No. 1180 corrected several statutory references from the central notice system to the central indexing system maintained by the Secretary of State for tax liens.

Senate Bill No. 2360 eliminates the requirement for state officers to post a bond, including the provision in Title 57 relating to the bond of the Tax Commissioner.

House Bill No. 1375 allows the owner of a park model trailer to pay a motor vehicle registration fee of $20 per calendar year and be exempt from taxation as a mobile home if it is used only for seasonal or recreational living quarters and not as primary residence and if it is located in a trailer park or campground.

House Bill No. 1109 eliminates obsolete references to estate tax filings with the Tax Commissioner.

Prepared by the North Dakota Legislative Council staff
April 1999

TITLE 58
Townships
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 58. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

Senate Bill No. 2355 provides that a township zoning regulation or restriction may not prohibit or prevent the use of land or buildings for farming or ranching or any of the normal incidents of farming. The bill defines "farming or ranching" as cultivating land for production of agricultural crops or livestock, or raising, feeding, or producing livestock, poultry, milk, or fruit. The bill allows a board of township supervisors to regulate the nature and scope of concentrated feeding operations, but provides that if a regulation would impose a substantial economic burden on a concentrated feeding operation in existence before August 1, 1999, the board of township supervisors must declare that the regulation is ineffective with respect to any such concentrated feeding operation.

The bill prohibits a board of township supervisors from establishing regulations that would prohibit the reasonable diversification or expansion of a farming or ranching operation.

House Bill No. 1167 requires township zoning regulations and restrictions to provide for emergency management. The bill defines "emergency management" as a comprehensive integrated system at all levels of government and in the private sector which provides for the development and maintenance of an effective capability to mitigate, prepare for, respond to, and recover from known and unforeseen hazards or situations, caused by an act of nature or man, which may threaten, injure, damage, or destroy lives, property, or our environment.

Senate Bill No. 2238 removes the requirement that three days' notice be provided for special township meetings held on the call of the township clerk.

Senate Bill No. 2045 removes the authority of a board of township supervisors to act as board of health and provides that a board of township supervisors may request assistance from a county or district board of health or the State Department of Health.

House Bill No. 1149 provides that the criteria for challenging the right of a person to vote under the general election law is the criteria to be used when challenging a person's right to vote at any township meeting. The bill also specifies in the general election law that a person offering to vote may be challenged if the person offering to vote does not meet the age or citizenship requirements, has never voted in the precinct before and fails to provide reasonable evidence of residency, or does not meet the residency requirements provided under law.

House Bill No. 1044 removes references to the twentieth century with respect to the township tax assessment form.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 59
Trusts, Uses, and Powers
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 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.

Senate Bill No. 2169 replaces the previous Uniform Principal and Income Act with the Uniform Principal and Income Act of 1997, which governs how trustees administer trusts, but does not adopt sections of the 1997 Act that would have allowed trustees to allocate property between income and principal.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 60
Warehousing and Deposits
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 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.

House Bill No. 1044 removes a reference to the twentieth century found in a statute governing the form of warehouse receipts.

House Bill No. 1156 provides that if required for United States Department of Agriculture approval of the Public Service Commission's warehouse inspection program, the commission may require an applicant for a public warehouse license to submit a current financial statement. The bill requires a warehouseman to publish and post in a conspicuous place the fees that will be assessed for receiving, storing, processing, or redelivering grain and provides that information regarding the volume of grain handled is a confidential trade secret and is not a public record.

Senate Bill No. 2153 sets forth the procedure for resolving disputes regarding the proper grade, dockage, vomitoxin level, moisture content, or protein content of any grain. It also requires applicants for grain buyers licenses to file a bond, in an amount not less than $5,000, with the commission.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 61
Waters
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 61. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to waters may be classified in these areas: statewide water development and bonds; Northwest Area Water Supply Project; water permits; drains; water districts; floodplain management; Atmospheric Resource Board; water pollution; and miscellaneous.

STATEWIDE WATER DEVELOPMENT AND BONDS

Senate Bill No. 2188 establishes statewide water development goals for the state and authorizes the issuance of $84.8 million in bonds for various flood control or reduction projects. The bill authorizes $52 million for flood control or reduction projects in Grand Forks, $3.5 million for flood control or reduction projects in Wahpeton, $4.8 million for flood control or reduction projects in Grafton, $4.5 million for the Southwest Pipeline Project, and $20 million for a Devils Lake outlet. The principal and interest on the bonds authorized under the bill are payable from the water development trust fund; then from the resources trust fund other than from revenue from state taxes; then from appropriations from other available revenues in the then current biennium; then from any other revenues the State Water Commission makes available during the then current biennium for that purpose, including any federal moneys received by the state for the construction of flood control or reduction projects to pay bonds issued for that project; and then if sufficient funds from these sources are not available from the first available current biennial earnings of the Bank of North Dakota not to exceed $6.5 million per biennium prorated with any other bonds payable from transfers to be made and appropriated by the Legislative Assembly from the available current biennial earnings of the Bank of North Dakota. The bill requires moneys received by the state pursuant to the 1998 settlement agreement with tobacco product manufacturers be deposited in the water development trust fund in the state treasury for use in paying for bonds issued as provided in 1999 House Bill No. 1475. The bill became effective April 19, 1999.

House Bill No. 1281 authorizes the State Water Commission to guarantee evidences of indebtedness issued or other obligations undertaken by the owners of water projects eligible to receive municipal, rural, and industrial water supply funds pursuant to the Garrison Diversion Unit Reformulation Act of 1986 or evidences of indebtedness issued or other obligations undertaken by not-for-profit organizations establishing a financing program for the owners of the water projects eligible to receive municipal, rural, and industrial water supply funds pursuant to the Reformulation Act for the purpose of providing the owners with construction financing. The bill also establishes the North Dakota irrigation district finance program under the operation, management, and control of the State Water Commission. The irrigation district finance program may guarantee municipal securities issued by an irrigation district and lend money to irrigation districts through the purchase and holding of municipal securities which are eligible for purchase by the irrigation district finance program. This bill became effective April 9, 1999.

NORTHWEST AREA WATER SUPPLY PROJECT

House Bill No. 1166 requires the State Water Commission to fix water rates for the Northwest Area Water Supply Project. The bill requires revenues received by the State Water Commission from Northwest Area Water Supply Project water user entities for operation and maintenance be placed in an operation and maintenance fund and used only for paying for costs and expenditures for operation and maintenance of the Northwest Area Water Supply Project. The bill requires that revenues received by the State Water Commission from Northwest Area Water Supply Project water user entities for replacement and extraordinary maintenance of the Northwest Area Water Supply Project not held pursuant to the terms of a resolution or trust indenture be deposited in a reserve fund for replacement and used only for replacement and extraordinary maintenance of the Northwest Area Water Supply Project. The bill requires that moneys derived and received from Northwest Area Water Supply Project water user entities for capital costs or construction of the Northwest Area Water Supply Project not held pursuant to the terms of a resolution or trust indenture be placed in a capital costs and construction fund and used only for capital costs and construction of the Northwest Area Water Supply Project. The bill also authorizes the State Water Commission to deliver, distribute, and treat water in Bottineau, Burke, Divide, McHenry, McLean, Mountrail, Pierce, Renville, Ward, and Williams Counties.

WATER PERMITS

Senate Bill No. 2107 requires comments regarding a proposed water appropriation be submitted to the state engineer in writing and contain the name and address of the person filing the comments. The bill provides that within 30 days of receiving the recommended decision of the state engineer on the water permit application, the applicant and any person who filed written comments may file additional written comments with the state engineer or request a hearing on the application, or both. If a request for a hearing is not made, the state engineer, after considering the additional comments, is required to issue a final decision. If a request for a hearing is made or if the state engineer determines a hearing is necessary to obtain additional information to evaluate the application or to receive public comment, the state engineer is required to hold a hearing. If two or more municipal or public use water facilities request the hearing to be held locally, the state engineer is required to hold the hearing in the county seat in the county in which the proposed water appropriation site is located.

DRAINS

House Bill No. 1417 requires that obstructions to drains, noncomplying dikes or dams, and noncomplying drains must be removed within a time period as determined by the local Water Resource District Board, but not less than 15 days rather than 30 days.

Senate Bill No. 2369 requires that copies of water resource district project notices be mailed to each affected landowner at the landowner's address as shown by the tax rolls of the county or counties in which the property affected by the water resource district project is located.

WATER DISTRICTS

House Bill No. 1140 requires that applicants publishing a notice for the organization of a water district pay all costs of publishing the notice.

FLOODPLAIN MANAGEMENT

House Bill No. 1167 establishes community standards for floodplains. The bill requires that residential structures be constructed on fill so that the lowest floor, including basements, is elevated to or above the base flood level unless granted a residential floodproof exemption and that commercial and industrial structures be constructed on fill so that the lowest floor, including basements, is elevated to or above the base flood level or be adequately floodproofed up to an elevation no lower than the base flood level. The bill also encourages communities to adopt standards that require residential structures to be constructed so that the lowest floor is elevated to at least one foot above the base flood level and commercial and industrial structures are constructed so that the lowest floor is elevated to at least one foot above the base flood level or the structures are adequately floodproofed up to an elevation no lower than one foot above the base flood level. The bill requires the state engineer to review development in mapped floodways. The community standards become effective August 1, 2000.

ATMOSPHERIC RESOURCE BOARD

House Bill No. 1040 authorizes the Atmospheric Resource Board to plan and study a hail suppression pilot program that would provide urban and rural hail suppression operations statewide or to any portion of the state. The bill also authorizes the Atmospheric Resource Board to provide weather modification services in geographical regions in addition to counties. The bill provides that if weather modification services are not provided to the entire county, the weather modification authority may certify annually to the Board of County Commissioners a tax for a weather modification fund of not to exceed seven mills upon the taxable valuation of the property in the county designated to receive weather modification services.

WATER POLLUTION

Senate Bill No. 2178 reduces the penalty for willfully violating the state's surface water pollution standards from $25,000 per day per violation to $10,000 per day per violation and the fine for a subsequent conviction after a first conviction from $50,000 per day per violation to $20,000 per day per violation. The bill establishes a penalty of not more than $10,000 per day per violation or imprisonment for not more than six months for violating the state's surface water pollution standards with criminal negligence. The bill reduces the fine for knowingly making a false statement, representation, or certification in any record from $10,000 to $5,000 per day per violation and the fine for violating the chapter governing control, prevention, and abatement of pollution of surface waters or a permit condition, rule, order, limitation, or other applicable requirement implementing the chapter from $10,000 per day per violation to $5,000 per day per violation.

MISCELLANEOUS

House Bill No. 1139 provides a procedure for water resource district board decisions concerning noncomplying dams, dikes, or other devices to be appealed to the state engineer. The appeal must be made within 30 days from the date notice of the board's decision has been received. The state engineer is required to conduct an independent investigation and make an independent determination in the matter. If the state engineer determines that a dam, dike, or other device has been constructed or established contrary to law or rules adopted by the board, the state engineer is required to notify the landowner, return the matter to the jurisdiction of the board, or forward the complaint and investigation report to the State's Attorney. If the state engineer determines to notify the landowner, the notice must specify that if the dam, dike, or device is not removed within a reasonable time as determined by the state engineer, the state

engineer shall procure the removal of the dam, dike, or other device and assess the cost of removal against the property of the responsible landowner.

Senate Bill No. 2334 revises provisions of Title 61 to be consistent with changes made to change tax sale proceeding to foreclosure of tax liens.

Senate Bill No. 2360 deletes the bond requirement for the state engineer.

Senate Bill No. 2130 deletes the requirement that claims paid by the state engineer be vouchered and filed with the State Auditor.

House Bill No. 1044 removes references to the twentieth century in Title 61.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 62.1
Weapons
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 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.

House Bill No. 1447 allows a person confined or committed for evaluation to determine if that person is mentally ill or mentally deficient to possess firearms if the petition for confinement or commitment is dismissed. The bill prohibits a person who is applying for a concealed weapons permit from receiving the permit if that person is prohibited by federal law from possessing a firearm.

Prepared by the North Dakota Legislative Council staff
April 1999

TITLE 63
Weeds
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 63. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

House Bill No. 1256 adds scoria to the list of products that may be examined by the Agriculture Commissioner and certified as being free of noxious weeds.

Prepared by the North Dakota Legislative Council staff

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TITLE 64
General Units of Weights and Measures
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 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.

House Bill No. 1155 exempts weighing and measuring devices used by transient vendors from the requirement that all weighing or measuring devices must be supervised and controlled by the Public Service Commission. A transient vendor is defined as a wholesale or retail sellers of produce, fruit, nuts, or seafood which maintains a temporary sales location on a seasonal basis and for less than 120 business days each year.

Prepared by the North Dakota Legislative Council staff

April 1999

TITLE 65
Workers' Compensation
Summary of Bills Enacted by 1999 Legislative Assembly

This memorandum summarizes 1999 legislation primarily affecting North Dakota Century Code Title 65. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

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

BUREAU

House Bill No. 1266 provides the circumstances under which the Workers Compensation Bureau may contract to purchase a building and property to house bureau operations and provides a continuing appropriation to defray this purchase. Although the Governor vetoed this bill, the Legislative Assembly overrode the veto.

House Bill No. 1296 provides the bureau may execute a contract for extraterritorial coverage and other states' insurance and provides a continuing appropriation to establish this program for extraterritorial coverage and other states' insurance; directs the bureau to create work safety and loss prevention programs and provides an appropriation for these programs; provides the bureau may create and implement by emergency rulemaking employer premium calculation programs; and provides the bureau may establish a program to provide retrospective rating.

Senate Bill No. 2015 provides if the bureau purchases a building, the bureau shall make payments in lieu of property taxes in the manner and according to the conditions and procedures that would apply if the building were privately owned.

CLAIMS AND COMPENSATION

House Bill No. 1283 increases workers' compensation death benefits and burial benefits and provides the bureau may grant scholarships to injured workers for whom the bureau determines a scholarship will be beneficial and appropriate because of exceptional circumstances.

House Bill No. 1330 would have provided the procedures to be followed by a party disputing a bureau decision; would have provided under what circumstances the bureau may reopen an issue decided as a result of a formal hearing; and would have repealed the effective date of Section 7 of Chapter 532 of the 1997 Session Laws of North Dakota. The Governor vetoed this bill and the Legislative Assembly sustained the veto, thus the bill will not go into effect.

House Bill No. 1332 provides a compensable injury may include a mental or emotional injury arising principally out of a bona fide personnel action; clarifies the definition of child in various portions of the workers' compensation law; and provides under what circumstances an employer, self-employed individual, and volunteer may secure workers' compensation coverage.

House Bill No. 1422 defines permanent impairment; provides the formula for establishing a permanent impairment lump sum benefit; provides the circumstances under which a permanent impairment evaluation may be performed and the requirements of an evaluation; provides how to rate a permanent impairment; and provides for a bureau study and report to the Legislative Council before the 2001 legislative session regarding the awards provided to injured employees with permanent impairments.

Senate Bill No. 2214 provides the circumstances under which a claimant is eligible for supplementary benefits; provides the maximum benefit rates for partial disability; increases the maximum benefit rate for temporary total and permanent total disability; and provides the bureau shall study the benefits available to persons receiving long-term disability or death benefits and shall report the results of the study to an interim committee of the Legislative Council before the 2001 legislative session.

EMPLOYERS

House Bill No. 1331 provides the circumstances under which an employer may be civilly liable for injuries to an employee; increases the criminal penalty for an employer failing to secure workers' compensation coverage; and provides a continuing appropriation for the workers' compensation fraud unit.

Senate Bill No. 2272 extends employer liability immunity for employee workplace injuries to staffing services.

FUND BALANCE

House Bill No. 1259 replaces the specific workers' compensation fund balance requirements with general balance requirements that provide the bureau shall maintain adequate fund reserves to ensure the solvency of the fund and the payment of future benefit obligations.

MANAGED CARE PROGRAM

House Bill No. 1136 provides any psychologist or physician making a health care utilization review under the bureau's managed care program must be licensed by the State Board of Psychologist Examiners or State Board of Medical Examiners.

House Bill No. 1333 provides how the bureau shall adopt schedules of fees for medical and hospital goods and services; removes the requirement that the bureau contract for the servi of a third-party administrator in implementing a managed care program to monitor medical treatments of injured employees and in monitoring the payment of medical expenses of all workers' compensation claims; provides a managed care program must include utilization review and bill review; and provides certain information compiled and analysis performed pursuant to a managed care program is confidential.

OFFICE OF INDEPENDENT REVIEW

House Bill No. 1325 changes the name of the workers' advisor program to the office of independent review, removes the expiration date provision for the office of independent review, provides the office of independent review shall provide assistance to workers in cases of constructive denial and after a vocational consultant's report is issued, and provides which of the information in a file established by the office of independent review is privileged; removes certain independent performance evaluation requirements and provides the firm conducting the evaluation need not be a certified public accounting firm; removes the expiration date provision for the allowance of preacceptance of disability benefits; and addresses the effective date of certain bureau laws.

MISCELLANEOUS

Senate Bill No. 2360 removes the requirement that the director of the bureau be bonded by the state bonding fund for the faithful discharge of the director's duties and the proper accounting for all moneys received by the director and removes the requirement that the State Treasurer give a separate and additional bond for the faithful performance of the State Treasurer's duties as custodian of the workers' compensation fund.