Prepared by the North Dakota Legislative Council staff
June 2001

TITLE 1
General Provisions
Summary of Bills Enacted by 2001 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

June 2001

TITLE 2
Aeronautics
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 2. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

Senate Bill No. 2053 changes the recipient of a bond or cash used to secure the payment of taxes by a person engaged in the business of common carrier by aircraft from the State Treasurer to the State Tax Commissioner.

Senate Bill No. 2073 increases the fee for an application or annual renewal of an aircraft dealer's license from $25 to $150. The bill requires an aircraft dealer to submit an inventory and a flight log for demonstrator aircraft. The bill creates a presumption that an aircraft is not a demonstrator aircraft if it is flown in excess of 50 hours in 12 months. This presumption may be overcome upon providing satisfactory evidence to the Aeronautics Commission that the demonstrator aircraft was used exclusively for demonstration purposes. The bill increases the fee for an ultralight vehicle dealer's license from $15 to $50.

Senate Bill No. 2421 increases the compensation of the members on the Aeronautics Commission from $20 per day to $75 per day or portion of a day when the member is engaged in performance of official duties.

Prepared by the North Dakota Legislative Council staff
June 2001

TITLE 3
Agency
Summary of Bills Enacted by 2001 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

May 2001

TITLE 4
Agriculture
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 4. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

Bills relating to agriculture may be classified in these subject areas: appropriations and expenditures; agricultural chemicals; commodity groups; seeds; and miscellaneous.

APPROPRIATIONS AND EXPENDITURES

House Bill No. 1009 provides appropriations for the Agriculture Commissioner. The bill raises the salary of the Agriculture Commissioner to $66,509 through December 31, 2001, to $68,504 through June 30, 2002, and to $69,874 thereafter. The bill also expands the membership of the Crop Protection Product Harmonization and Registration Committee to include a member of the House or Senate Agriculture Committee, a crop protection product dealer, and the director of the North Dakota State University Agricultural Experiment Station.

Senate Bill No. 2021 provides appropriations for the North Dakota State University Extension Service, the Northern Crops Institute, the Upper Great Plains Transportation Institute, the agricultural research centers, and the Agronomy Seed Farm. The bill also adds two members of the Legislative Assembly to the State Board of Agricultural Research and Education.

House Bill No. 1181 appropriates any interest earned by the agricultural research fund to the State Board of Agricultural Research and Education and authorizes the board to expend annually up to $50,000 from the fund for reasonable administrative purposes.

House Bill No. 1417 authorizes the issuance of revenue bonds or other evidences of indebtedness by the Industrial Commission for the establishment of meatpacking plants.

House Bill No. 1349 expands the Agriculture in the Classroom Council from 12 to 16 members and appropriates $75,000 to the Agriculture Commissioner for the purpose of developing and expanding agriculture in the classroom curricula.

House Bill No. 1095 raises the per diem reimbursement for members of the Agricultural Products Utilization Commission from $50 to $62.50.

AGRICULTURAL CHEMICALS

Senate Bill No. 2167 clarifies that a certified pesticide applicator includes a commercial applicator and a private applicator and broadens certain certification requirements to include all pesticides, not just restricted use pesticides.

Senate Bill No. 2110 continues Project Safe Send through July 31, 2003.

Senate Bill No. 2419 requires commercial pesticide applicators to furnish proof of financial responsibility to the Agriculture Commissioner upon demand.

House Bill No. 1328 creates the Crop Protection Product Harmonization and Registration Board and charges the board with identifying and prioritizing crop protection product labeling needs.

COMMODITY GROUPS

Senate Bill No. 2171 adds the North Dakota Dry Pea and Lentil Council to the list of commodity groups whose moneys must be invested by the State Treasurer. The bill also adds the North Dakota Dry Pea and Lentil Council to the list of commodity groups that must file a report with the Agriculture Committees of the Legislative Assembly.

Senate Bill No. 2172 removes the requirement that the North Dakota Beef Commission expend at least 50 percent of all its assessments to support the beef promotion, research, and education activities of the National Beef Board. The bill also requires that members of the North Dakota Beef Commission be United States citizens and be participants in the cattle industry for at least five years.

House Bill No. 1258 adds a canola grower to the North Dakota Oilseed Council.

House Bill No. 1250 allows agriculture commodity councils to set the level of compensation for council members. The level of compensation may not, however, exceed $75 per day.

SEEDS

Senate Bill No. 2235 authorizes the State Seed Commissioner to inspect, analyze, and verify the genetic identity or physical traits of seeds or crops.

Senate Bill No. 2169 expands the State Seed Arbitration Board to include the State Seed Commissioner.

Senate Bill No. 2103 authorizes the State Seed Commissioner, with the approval of the State Seed Commission, to establish and charge fees for making commodity grade inspections.

Senate Bill No. 2104 provides that the director of the Experiment Station is a voting member of the State Seed Commission. The bill also removes the requirement that the commission must hold meetings during each November and June and requires instead that the commission hold meetings at least twice each calendar year.

Senate Bill No. 2389 requires that the State Seed Commissioner permit a North Dakota potato grower to sell or transfer certified seed potatoes to another North Dakota potato grower who may, in turn, plant the seed potatoes only for commercial production.

House Bill No. 1442 establishes procedures that must be followed if a person believes that a farmer has infringed upon the patent applicable to a genetically modified seed.

Senate Bill No. 2204 directs the State Seed Commission to establish, for annual crops and perennial crops, a seed classification system that references tolerances for each restricted noxious weed species.

MISCELLANEOUS

House Bill No. 1170 repeals from the law references to standards for the production and sale of cream.

Senate Bill No. 2019 increases from 12 to 14 the number of years for which an ethanol plant in operation before July 1, 1995, may receive production incentives from this state.

House Bill No. 1200 authorizes the North Central Research Extension Center to purchase land in Ward County. The bill also authorizes the Williston Research Extension Center to purchase land in Williams County.

House Bill No. 1031 removes authorization of a park district to levy taxes for the control of pests.

Senate Bill No. 2122 replaces the "centennial trees" program with the "trees for North Dakota" program and allows for a voluntary checkoff on individual tax returns to support the program.

House Bill No. 1209 provides that the North Dakota Agricultural Hall of Fame Committee may determine the number of nominees to be inducted each year.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 5
Alcoholic Beverages
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 5. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

Senate Bill No. 2053 moves the duties relating to the regulation of the sale of alcoholic beverages including the licensure of manufacturers of alcoholic beverages, unfair competition, the regulation of direct sales from out-of-state retailers of alcoholic beverages, wholesale licensure, brand registration, and the collection of wholesale taxes from the State Treasurer to the State Tax Commissioner.

Senate Bill No. 2397 requires an out-of-state manufacturer or retailer making a direct sale of certain alcoholic beverages to a customer in this state to have a direct shipping license. The fee for the annual license is $50 and the direct shipper must pay wholesale and retail taxes and report on sales and taxes due to the State Tax Commissioner. The State Tax Commissioner may enjoin illegal shipments and may notify the federal Bureau of Alcohol, Tobacco, and Firearms and the direct shipper's home state of an illegal shipment.

Senate Bill No. 2441 allows a public official who is under 21 years of age to enter an alcohol establishment in the performance of an official duty.

House Bill No. 1404 creates a farm winery license by which a farm in this state may make wine from products produced in this state and sell the wine to retail customers for an annual license fee of $50. The licensee must pay applicable wholesale and sales taxes and report quarterly on sales and taxes due.

House Bill No. 1005 amends House Bill No. 1404 to change the state official that issues a farm winery license from the State Treasurer to the State Tax Commissioner.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 6
Banks and Banking
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 6. Bills primarily affecting other titles 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 into four subject areas: regulatory and administrative agencies, records and confidentiality of information, transactions, and miscellaneous.

REGULATORY AND ADMINISTRATIVE AGENCIES

House Bill No. 1080 provides that when the State Banking Board considers an application to allow for relocation of an existing banking facility to another location within the same corporate city limits, the only factor the board may consider is the financial strength of the bank in relation to the cost of establishing and maintaining the separate facility.

House Bill No. 1339 provides that instead of the sale and leasing of agricultural real estate acquired by the Bank of North Dakota being done in accordance with rules adopted by the Board of University and School Lands, they are done in accordance with policies adopted by the Industrial Commission.

Senate Bill No. 2085 provides the North Dakota Municipal Bond Bank and any state agency authorized by state or federal law may enter an administrative agreement that may authorize the bond bank to administer the loan or bond program for the state agency.

Senate Bill No. 2164 changes the name of the State Department of Banking and Financial Institutions to the State Department of Financial Institutions and the title of the Commissioner of Banking and Financial Institutions to the Commissioner of Financial Institutions.

Senate Bill No. 2216 removes the June 30, 2001, expiration date for the North Dakota Agricultural Mediation Service.

Senate Bill No. 2231 provides that a banking institution that discontinues a facility established for the purpose of providing educational opportunities to a high school is entitled to refund of any application fee paid to the Department of Banking and Financial Institutions.

Senate Bill No. 2211 creates a compliance self-critical analysis privilege for financial institutions and provides the circumstances under which the privilege may and may not be claimed.

RECORDS AND CONFIDENTIALITY OF INFORMATION

House Bill No. 1082 provides that if the Commissioner of Banking and Financial Institutions furnishes confidential information to a third party authorized to receive that information, the information remains confidential in the possession of the third party and likewise, if the commissioner receives confidential information, that information remains confidential in the possession of the commissioner. The bill also expands the persons to whom the commissioner

may furnish information and enter sharing agreements to include the Insurance Commissioner and the office of the Securities Commissioner.

House Bill No. 1329 provides a financial institution may disclose customer information for the purposes of reporting suspected exploitation of a disabled adult or vulnerable elderly adult.

Senate Bill No. 2065 requires a North Dakota federally chartered corporate credit union to allow the Commissioner of Banking and Financial Institutions access to records and sets a rate of reimbursement for the credit unions for searching and processing records.

Senate Bill No. 2117 provides a definition of "customer" as it pertains to the sharing of commercial or financial customer information by the Bank of North Dakota.

Senate Bill No. 2191 provides that North Dakota statutory provisions relating to the disclosure of customer information are not applicable if the disclosure is subject to federal law and the financial institution complies with the federal law.

TRANSACTIONS

House Bill No. 1015 reiterates that the state may restrict the ability of a North Dakota bank holding company to acquire a bank in this state but adds that the restriction does not apply to any bank established in this state on July 31, 1997.

House Bill No. 1290 expands the types of investments credit unions may make to include notes or bonds secured by a security interest or lien upon unencumbered personal property outside the state and increases maximum investment limits from 75 to 90 percent of the actual cash value of the property secured.

House Bill No. 1351 expands the types of investments a state-chartered bank may make by changing the limitation to investments in stocks of subsidiary corporations with activities that are incidental to banking activities by allowing investments in subsidiary organizations with activities that are incidental or complementary to the bank's activities. The bill also provides that the State Banking Board may authorize a state-chartered bank to engage directly or indirectly in any activity in which a national bank could engage, whereas existing law was limited to "banking activities."

Senate Bill No. 2194 provides that in addition to making loans to North Dakota beginning farmers, the Bank of North Dakota may participate in loans to North Dakota beginning farmers and expands types of loans covered under the beginning farmers loan program to include loans for the purchase of agricultural equipment and livestock.

Senate Bill No. 2349 increases from $75,000 to $100,000 the maximum amount of a loan for which a beginning entrepreneur loan guarantee may be allowed and increases from $500,000 to $4,000,000 the maximum amount of loans that may be outstanding under the program.

House Bill No. 1375 provides the procedure required of someone who has funds transferred by wire or automated clearinghouse to a financial institution account that is not owned by the intended beneficiary of the funds and provides a person who has unauthorized funds transferred

may be liable to the financial institution for damages, costs, or expenditures incurred in connection with the unauthorized funds transfer.

MISCELLANEOUS

House Bill No. 1196 establishes in place of the expiring nursing facility alternative loan fund a long-term care facility loan fund and provides a revolving loan fund for renovation projects involving nursing facilities, basic care facilities, and assisted living facilities.

Senate Bill No. 2190 increases from $20 to $25 the amount of fees or costs recoverable by a holder of a check issued without sufficient funds or without an account.

Senate Bill No. 2265 increases the civil penalty for issuance of a bad check or draft from the lesser of $100 or three times the amount of the instrument to $200 or three times the amount of the instrument.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 7
Building and Loan Associations
Summary of Bills Enacted by 2001 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

June 2001

TITLE 8
Carriage
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 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. 1408 provides for the adoption of the Midwest Interstate Passenger Rail Compact. The compact provides for the promotion and development of passenger rail service, including high-speed rail service in the Midwest.

Senate Bill No. 2309 requires insurance safety standards adopted by the Highway Patrol for passenger contract carriers to include uninsured and underinsured motorist coverage of not less than $1 million per occurrence. The bill requires a permit be obtained by a person to engage in the business of a passenger contract carrier transporting fewer than 15 passengers and requires the display of the permit in each vehicle transporting these passengers. The bill makes a violation of safety standards an infraction.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 9
Contracts and Obligations
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting 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.

House Bill No. 1106 adopts the Uniform Electronic Transactions Act. The bill applies to electronic records or electronic signatures created, generated, sent, communicated, received, or stored after July 31, 2001.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 10
Corporations
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 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.

House Bill No. 1042 decreases from $500,000 to $250,000 the minimum capital requirements for venture capital corporations and increases from 20 to 25 percent the maximum amount of capital a venture capital corporation may invest in any one qualified entity.

House Bill No. 1053 changes the membership of the advisory committee for review of purchase of agricultural real estate by nonprofit organizations for the purpose of conserving natural areas and habitats by removing the membership of the State Engineer and the manager of the Garrison Diversion Conservancy District and adding the chairman of the board of county commissioners of any county affected by the acquisition.

Senate Bill No. 2090 provides for extensive changes to the securities laws addressing the registration of securities; transactions exempt from regulation under the state's securities laws; filing requirements for federally covered securities subject to Section 18(b)(2) of the Securities Act of 1933, as amended; registration of dealers, agents, investment advisers, and investment adviser representatives and notice filings by federal covered advisers; unlawful activities for investment advisers; and the Securities Commissioner's authority to address prohibited practices.

Senate Bill No. 2142 provides for extensive grammatical changes, technical clarifications, and substantive changes to the laws relating to business corporations, professional organizations, and limited liability companies. The substantive changes include provisions allowing an officer of a corporation, pursuant to board authorization, to fix the terms, provisions, and conditions of the rights to purchase corporate securities; allowing a constituent organization in a merger to change its corporate name without a vote of the shareholders by including that provision in the plan of merger; allowing the board of governors to designate a manager to enter contribution allowance agreements on behalf of a limited liability company; allowing the first board of governors of a limited liability company to be named in a member-control agreement; allowing the number of directors to be increased or decreased as provided in a member-control agreement; allowing the date, time, and place of meetings of the board of governors of a limited liability company to be designated in a member-control agreement; allowing a governor's personal liability to a limited liability company or the members to be limited or eliminated by so providing in a member-control agreement; allowing a president's authority to act on behalf of a limited liability company to be delegated to another through a member-control agreement; allowing a plan of merger or exchange to be submitted to the members of a limited liability company even though the board of governors no longer supports the plan; allowing a limited liability company that is a party to a merger to change its name without the vote of the owners through the inclusion of appropriate language in the plan of merger; listing the circumstances under which a limited liability company dissolves; listing the circumstances under which a court may order the sale of all of the membership interests in a limited liability company; designating

when a limited liability company is required to report the names of the officers who are in place at the time the annual report is filed; and increasing from $20 to $50 the filing fee for a certificate of fact of merger for a foreign limited liability company.

Senate Bill No. 2185 provides that if a nonprofit organization acquires agricultural real estate for the purpose of conserving natural areas and habitats, the nonprofit organization must make payments in lieu of property taxes on the property.

Senate Bill No. 2379 provides a definition of "production agriculture" as it applies to the North Dakota Development Fund.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 11
Counties
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 11. Bills primarily affecting other titles also affect this title, and relevant portions of those bills are summarized in this memorandum.

The legislation related to counties may be classified in the subject areas of county officers and fees and taxes.

COUNTY OFFICERS

House Bill No. 1255 changes references in law from the "register of deeds" to the "recorder."

Senate Bill No. 2244 provides that the boards of county commissioners of two or more counties may agree by resolution to elect a multicounty jurisdiction state's attorney pursuant to the provisions of law relating to multicounty officers. The bill provides that an agreement between two or more counties to provide for the election of a multicounty jurisdiction state's attorney must specify procedures for filing for office, the use of a single canvassing board, the sharing of election personnel, the printing of election materials, the publishing of legal notices, and the apportioning of legal expenses. The bill requires any candidate for election to the office of multicounty jurisdiction state's attorney to be a qualified elector of the multicounty jurisdiction at the time of the election. The bill also authorizes the boards of county commissioners of two or more counties to agree by resolution to allow any candidate for the office of state's attorney to petition for office in each county, and to serve if elected, if the candidate is a qualified elector of one of the counties at the time of election.

Senate Bill No. 2197 corrects a statutory reference to the ending date of terms of county commissioners from January to December. Legislation enacted by the 1997 Legislative Assembly provides that the term of a county commissioner commences on or before the first Monday in December following the date of the commissioner's election.

Senate Bill No. 2215 repeals the statutory provisions relating to the appointment and proceedings of county debt adjustment boards.

House Bill No. 1062 authorizes a county law enforcement officer in fresh pursuit to enter another county and continue within that county in fresh pursuit to make an arrest, in compliance with a warrant or without a warrant, if obtaining the aid of law enforcement officers having jurisdiction in that county would cause a delay permitting escape.

House Bill No. 1104 removes the requirement that a county auditor transmit a copy of the county's annual budget to the State Auditor.

FEES AND TAXES

Senate Bill No. 2173 requires a county treasurer to establish a document preservation fund to receive recording fees. The bill provides that the revenue in the document preservation fund may be used only for contracting for and purchasing equipment and software for a document

preservation, storage, and retrieval system; training employees to operate the system; maintaining and updating the system; and contracting for the offsite storage of microfilm or electronic duplicates of documents for the county recorder's office.

The bill increases from $2 to $10 the fee for recording of instruments that do not conform to margin requirements. The bill increases the fee for filing of non-central indexing system instruments from $5 to $10. The bill also increases the fee for making certified copies of filed non-central indexing system instruments from $5 plus $1 for each additional five pages to $5 plus $2 for each additional page and for making noncertified copies of filed non-central indexing system instruments from $1 for each five pages to a fee of not more than $1 per page. The bill increases the fee for recording a deed, mortgage, or other real estate instrument from $7 to $10 for the first page and $3 for each additional page and provides that the additional $3 of the fee collected for the first page of each instrument recorded must be placed in the document preservation fund. The bill also increases from $7 to $10 for the first page the fee for recording instruments satisfying, releasing, or otherwise modifying instruments previously recorded and provides that the additional $3 of the fee for each instrument recorded must be placed in the document preservation fund. The bill provides that the document preservation fund and the additional fees imposed for the purpose of that fund expire on June 30, 2005.

Senate Bill No. 2063 includes within the powers of a home rule county the authority to levy use taxes. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on March 21, 2001.

Senate Bill No. 2298 authorizes the board of county commissioners of a county to provide for improvements by special assessment by resolution of the board in addition to the existing provisions through which special assessment improvements may be proposed by petition of 60 percent of the landowners in a defined area outside the limits of an incorporated city.

House Bill No. 1332 provides that a person is not entitled to a tax or fee refund to be paid or approved by a county officer or employee unless the amount of the refund is $5 or more.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 12
Corrections, Parole, and Probation
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 12. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1044 provides that medical, psychological, and treatment records of persons in the custody of the Department of Corrections and Rehabilitation are confidential. The bill creates a new classification of records known as case management records and provides that case management records are exempt records. The bill also provides that records with respect to the person's identity, location, legal files, criminal convictions, and projected date of release, except for the records of a person who is under protective management, are open records.

House Bill No. 1270 adopts the Interstate Compact for Adult Offender Supervision. The bill creates an interstate commission for adult offender supervision to manage the movement between states of offenders placed under community supervision and released to the community. The bill also establishes a system of uniform data collection, access to information on active cases by authorized criminal justice officials, and regular reporting of compact activities to heads of state councils, state legislative, executive, and judicial branches, and criminal justice administrators.

House Bill No. 1350 provides that a prisoner who has been charged with, pled guilty to, or been convicted of a Class A or AA felony may only be transported by employees of the Department of Corrections and Rehabilitation or by law enforcement or correctional officers employed by a governmental agency.

House Bill No. 1398 makes the medical, psychological, and treatment records of an inmate confidential and only to be disclosed to certain agencies and departments unless a court orders the inspection of the records. The bill provides that records with respect to an inmate's identification, charges, criminal conviction, bail information, intake and projected release dates, and employment or work release records are open. The bill also provides that records with respect to a sentenced inmate's institutional discipline, conduct, and protective management are exempt records.

House Bill No. 1401 requires the correctional facility administrator to establish an inmate account for each inmate. The bill provides that the administrator may withdraw funds from the account to meet the inmate's legitimate financial obligations, including child support and restitution. The bill also authorizes the administrator to collect fees from inmates to offset health care costs.

Senate Bill No. 2016 increases the compensation for members of the Parole Board from $62.50 per day to $75 per day.

Senate Bill No. 2061 authorizes the director of the Division of Adult Services, with the concurrence of the director of the Department of Corrections and Rehabilitation, to appoint a warden for an affiliated facility of the Penitentiary.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 12.1
Criminal Code
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 12.1. Bills primarily affecting other titles also affect this title and relevant portions are summarized in this memorandum.

The legislation relating to the criminal code may be classified in these areas: sexual offenses and offenders; new offenses or changes in penalties; restitution and fees; sentencing; and miscellaneous.

SEXUAL OFFENSES AND OFFENDERS

Senate Bill No. 2035 provides that an adult is guilty of luring minors by computer if the adult uses a computer to lure a minor when the adult knows that the communication depicts sexual acts and by means of that communication the adult importunes, invites, or induces the minor to engage in sexual acts or to have sexual acts with the adult for the adult's benefit. The bill provides that luring minors by computer is a Class A misdemeanor, but if the adult is 22 years of age or older or the minor is under the age of 15, the crime is a Class C felony. The bill also criminalizes street gang initiation sexual acts, separates disorderly conduct-type behavior from the indecent exposure statute, and makes indecent exposure a crime for which a person is required to register as a sexual offender.

Senate Bill No. 2254 increases the penalty for the sexual abuse of wards from a Class A misdemeanor to a Class C felony. The bill also increases the penalty from a Class A misdemeanor to a Class C felony for the sexual assault of an individual who is in official custody or detained in a hospital, prison, or other institution and the offender has supervisory or disciplinary authority over that individual.

Senate Bill No. 2446 requires the Attorney General, with the assistance of the Department of Corrections and Rehabilitation and the juvenile courts, to develop guidelines for the risk assessment of sexual offenders who are required to register, with a low-risk, moderate risk, or high-risk level being assigned to each offender. The bill provides that if an offender is determined to be a high risk or moderate risk, relevant and necessary conviction and registration information must be disclosed to the public by a law enforcement agency. The bill requires the Attorney General to develop guidelines for public disclosure of offender registration information.

NEW OFFENSES OR CHANGES IN PENALTIES

House Bill No. 1363 makes a first offense for simple assault a Class B misdemeanor if the victim is a family or household member of the offender. The bill also makes a second or subsequent offense for simple assault a Class A misdemeanor if the victim is a family or household member of the offender. The bill provides that if an assault offense is against an offender's family or household member, the court must order the offender to complete a domestic violence offender treatment program unless an explanation is provided as to why the treatment would be inappropriate. The bill exempts the Class A misdemeanor domestic

violence simple assault offense from those offenses for which the defendant is placed under the supervision and management of the Department of Corrections and Rehabilitation.

Senate Bill No. 2046 makes it a Class C felony for any person to intentionally remove a minor from the state in violation of a custody decree. The bill became effective on March 19, 2001.

Senate Bill No. 2116 makes it a noncriminal offense for a minor to purchase, possess, smoke, or use cigarettes, cigars, cigarette papers, snuff, or tobacco in any other form in which it may be utilized for smoking or chewing. The bill also provides that cities and counties that adopt ordinances or petitions regarding the sale of tobacco to minors and use of tobacco by minors must provide for a fee of not less than $25 for a minor 14 years of age or older who has been charged with an offense.

Senate Bill No. 2426 provides that a person is guilty of a Class A misdemeanor if, with the intent to harass or annoy a former juror because of the verdict returned by the jury or the participation of the juror in the verdict, the person communicates with the juror in a manner that intimidates or conveys a threat of injury or damage to the juror or the juror's property.

RESTITUTION AND FEES

Senate Bill No. 2016 provides that unless the court, on the record, directs otherwise, restitution must be paid to the Division of Adult Services for any benefits the division has paid or may pay under the crime victims compensation program.

Senate Bill No. 2081 provides that the amount a defendant is ordered to pay to reimburse the state for indigent defense costs and expenses must include the $25 application fee imposed under North Dakota Century Code Section 29-07-01.1, unless the fee has been paid before disposition of the case or the court has waived payment of the fee.

Senate Bill No. 2135 provides that if an offender does not pay supervision fees and costs before the completion or termination of probation, the court may issue an order, and the order may be enforced in the same manner as other civil judgments.

SENTENCING

Senate Bill No. 2118 provides that if the probation of a person whose felony conviction was reduced to a misdemeanor is revoked, the person is deemed to have been convicted of a felony.

Senate Bill No. 2444 requires that to sentence an offender to an extended sentence as a dangerous special offender, a jury, or the court if a jury is waived, must find that the defendant is a dangerous special offender by proof beyond a reasonable doubt. The bill also provides that for an offender to be sentenced as a habitual offender, the court must find that the defendant is a habitual offender by a preponderance of the evidence. Finally, the bill repeals North Dakota Century Code Section 12.1-31-06, which makes it a Class B misdemeanor to intentionally inhale the vapors of a volatile chemical; and the bill repeals Chapter 12.1-31.1, a chapter which contains penalties for the unlawful possession, manufacture, delivery, and advertisement of drug paraphernalia. New statutes similar to those being repealed in Title 12.1 are created in Title 19. The bill became effective on April 12, 2001.

MISCELLANEOUS

House Bill No. 1089 authorizes bingo halls and onsite food concessions to be open on Sundays between the hours of 12:00 midnight and 1:00 a.m. and between the hours of 12:00 noon and 12:00 midnight. This bill became effective on March 20, 2001.

House Bill No. 1092 provides that jurisdiction for an in-state escape of a prisoner who is in the legal custody of the warden of the Penitentiary, the Department of Corrections and Rehabilitation, or other lawful authority is in the county where the violation occurred. If the escape occurs outside the state, the bill provides that jurisdiction is in Burleigh County or in the county in which the order committing the person to official detention was entered. The bill also provides that an officially detained person in the legal custody of the warden of the Penitentiary, the Department of Corrections and Rehabilitation, or other competent authority is guilty of escape if while outside the state, the person escapes, attempts to escape, or fails to return to official detention following temporary leave granted for a specified purpose or limited period. The bill became effective on February 16, 2001.

House Bill No. 1453 authorizes an individual to engage in certain conduct to assist law enforcement officers in the investigation of a criminal offense. The bill provides that if the individual is a minor, when practicable, permission must be obtained from the individual's parent. The bill further provides that a court, by written order, may authorize a defendant to assist law enforcement officers in the investigation of a criminal offense. The bill requires an in camera hearing before issuing the order and that the order must be sealed and is subject to inspection only upon order of the court.

Senate Bill No. 2079 provides that unless otherwise terminated by the court, a temporary restraining order remains in effect until a restraining order is issued. The bill also increases the maximum penalty for violating a restraining order from $1,000 to $2,000.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 13
Debtor and Creditor Relationships
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 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. 1081 requires that a person be licensed as a money broker to provide loans or leases as a form of financing, or to advertise or solicit the right to find lenders or provide loans or leases.

House Bill No. 1273 provides for the regulation of a person who provides deferred presentment services, i.e., payday loans. The bill provides for an application procedure and the issuance of a license. The bill regulates the deferred presentment service by requiring clear and conspicuous notice to the maker of the check of certain information about the loan. The bill limits the fee for the service to not exceed 20 percent of the amount paid to the maker and limits the disbursement to the maker to not more than $500. The bill provides for the denial, suspension, and revocation of a license and creates a Class C felony for providing deferred presentment services without a license. The bill provides that the commissioner of financial institutions is the agency for regulation of deferred presentment services and may issue cease and desist orders to licensees.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 14
Domestic Relations and Persons
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 14. Bills primarily affecting other titles also affect this title, and relevant portions of those bills are summarized in this memorandum.

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

MARRIAGE AND DIVORCE

Senate Bill No. 2046 consolidates the chapters of the North Dakota Century Code dealing with divorce and separation into one chapter. The bill also removes and updates obsolete and archaic language in the domestic relations statutes.

Senate Bill No. 2047 provides that grandparents and great-grandparents of an unmarried minor may be granted reasonable visitation rights if the court finds that visitation would be in the best interests of the minor and would not interfere with the parent-child relationship.

CHILD SUPPORT

House Bill No. 1168 provides that payments on child support arrearage must first be applied to accrued interest on the earliest arrearage and then to the principal of that arrearage. The bill also provides that the Department of Human Services may calculate judgment interest accrued only on child support obligations that first become arrearages after July 1, 2002; and that interest on obligations that became arrearages before July 2, 2002, may only be calculated if a court has ordered the interest amount calculated by some individual or entity other than the public authority and approved the calculated amount. The bill also requires that each judgment order requiring the payment of child support include a statement that the child support obligation will accrue interest if not timely paid.

Senate Bill No. 2160 removes time limitations associated with liens on real property or executions that are used to enforce judgments for unpaid child support. The bill also provides that child support that is owed to an obligee for the benefit of the obligee's child may not be seized by a creditor to satisfy a debt owed by the obligee. The bill changes the length of the period on which the noncustodial parent's income is based from 6 to 12 months. The bill also provides that any employer who penalizes a noncustodial parent because of an income withholding order may be punished by contempt of court.

Senate Bill No. 2373 provides that the child support guidelines must authorize a rebuttal of the presumption that the amount of support is correct in cases of atypical overtime wages or nonrecurring bonuses over which the obligor does not have significant influence or control.

PARENT AND CHILD

Senate Bill No. 2045 authorizes a court to appoint a child custody investigator for custody, support, or visitation proceedings. The bill also provides that any guardian ad litem or child custody investigator appointed by the court who acts in good faith in making a report to the court is immune from any civil liability resulting from the report. The bill provides that in property division proceedings, the court may redistribute property in a postjudgment proceeding if a party has failed to disclose property and debts as required by the rules or the party fails to comply with the terms of a court order distributing property and debts.

DOMESTIC VIOLENCE

Senate Bill No. 2079 provides that unless otherwise terminated by the court, an ex parte temporary protection order remains in effect until a domestic violence protection order is issued.

Senate Bill No. 2281 authorizes the court to issue a domestic violence protection order or an ex parte temporary protection order even though the actions constituting domestic violence occurred exclusively outside the state. The bill limits the relief that may be granted to an order restraining the party from having contact with or committing acts of domestic violence on another person in this state.

Senate Bill No. 2384 provides that an adult family or household member who willfully abuses or neglects a child is guilty of a felony.

DISCRIMINATION

House Bill No. 1448 provides that a person may refuse to rent a dwelling to two unrelated individuals of opposite gender who are not married to each other.

Senate Bill No. 2113 provides that a discrimination complaint filed must be minimally sufficient rather than a sworn charge. The bill also provides that the Department of Labor may disclose information received during informal negotiation or conciliation efforts to the Equal Employment Opportunity Commission if that information is needed for proper processing and closure of complaints.

Senate Bill No. 2154 changes the definitions of several terms used in the state's housing discrimination laws to make the definitions equivalent to the federal law. The bill also clarifies several issues relating to the conditions under which housing may be exempt from certain provisions of housing discrimination law if the housing is specifically intended for older persons. The bill removes the requirement that complaints must be submitted under oath. The bill specifies the time within which the Department of Labor must provide information to the parties to a complaint upon issuing a charge. The bill removes the requirement for the department to make public disclosure of each dismissal of a complaint. The bill also provides that a complaint filed with the department is an open record but that information obtained during an investigation in which the case is active is exempt from disclosure. The bill became effective on March 21, 2001.

Senate Bill No. 2217 creates a Division of Human Rights within the Department of Labor. The bill authorizes the department to receive and investigate complaints alleging discriminatory behavior in the areas of housing, employment, public accommodations, public services, and

credit transactions. The bill also prohibits housing discrimination based upon status with respect to public assistance.

ABORTION CONTROL

Senate Bill No. 2004 provides that the printed pregnancy and childbirth materials distributed by the State Department of Health must be published in a booklet format and that the majority of the pictures included in the booklet must be full color photograph-style images.

Senate Bill No. 2361 requires the State Department of Health to make available on the department's Internet web site the pregnancy and childbirth materials that the department is required to publish.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 15
Education
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 15. Bills primarily affecting other titles also affect this title, and relevant portions of those bills are summarized in this memorandum.

The legislation relating to education may be classified in these subject areas: Higher Education, State Board for Vocational and Technical Education, Board of University and School Lands, Division of Independent Study, and Teachers' Fund for Retirement.

HIGHER EDUCATION

Senate Bill No. 2039 allows the State Board of Higher Education to authorize campus improvements and building maintenance provided the cost does not exceed $385,000.

Senate Bill No. 2041 directs the State Board of Higher Education to adopt a strategic planning process and to develop a strategic plan to define and prioritize University System goals and objectives. The board also is directed to provide an annual performance and accountability report regarding performance and progress toward the goals outlined in the strategic plan and the accountability measures.

Senate Bill No. 2042 authorizes the State Board of Higher Education to appoint and remove the commissioner of higher education and all University System office personnel.

Senate Bill No. 2136 removes the requirement that a person have graduated from a high school in this state within the previous six years in order to be considered a resident student for purposes of determining tuition and requires only that the person be a graduate of a high school in this state.

Senate Bill No. 2137 authorizes the construction of a student housing apartment building on the campus of North Dakota State University and authorizes the renovation of Robinson Hall.

House Bill No. 1015 provides that if an institution under the control of the State Board of Higher Education undertakes a capital construction project with the approval of the Legislative Assembly, all local funds to be used for the project must be derived from sources that have been presented to and approved by the Legislative Assembly.

House Bill No. 1283 directs the State Board of Higher Education to administer a technology occupations student loan program.

House Bill No. 1444 creates a student loan forgiveness program that makes available up to $5,000 to individuals who teach at grade levels or in content areas that are identified as having teacher shortages.

STATE BOARD FOR VOCATIONAL AND TECHNICAL EDUCATION

House Bill No. 1068 allows the State Board for Vocational and Technical Education to obtain the articles of incorporation for any postsecondary institution seeking approval to operate.

BOARD OF UNIVERSITY AND SCHOOL LANDS

House Bill No. 1074 directs the Board of University and School Lands to transfer certain mineral interests in Stark County to the lands and minerals trust fund.

DIVISION OF INDEPENDENT STUDY

House Bill No. 2251 removes the Division of Independent Study from the control of the Superintendent of Public Instruction and places the division under the Educational Technology Council.

TEACHERS' FUND FOR RETIREMENT

Senate Bill No. 2180 allows a retired teacher, after one year of retirement, to return to teaching without a loss of retirement benefits if the individual returns to teach in a geographic area or a discipline area experiencing a critical shortage of teachers.

House Bill No. 1102 provides an increase in retirement benefits for teachers who are retired on June 30, 2001. The increase equals $2 multiplied by years of service credit plus $1 multiplied by the number of years since retirement. In addition, an individual is eligible to receive an increase equal to seventy-five hundredths of one percent of the individual's current monthly benefit.

House Bill No. 1101 provides that all records relating to the retirement benefits of a member or a beneficiary are confidential and are not public records. Disclosure is limited to those who have the teacher's written consent, a representative of the teacher, and a person authorized by a court order. Disclosure for specific purposes only is permitted to a member's participating employer, the staff of the public employees' retirement system, state or federal agencies for the purpose of validating eligibility or compliance, and member interest groups approved by the board.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 15.1
Education
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 15.1. Bills primarily affecting other titles also affect this title, and relevant portions of those bills are summarized in this memorandum.

The legislation relating to education may be classified in these subject areas: students and schools, teachers, school boards and school districts, finance, and miscellaneous.

STUDENTS AND SCHOOLS

House Bill No. 1293 requires annual testing of students in grade spans 3-5, 6-9, and 10-12, which is aligned to state content standards in reading and mathematics.

Senate Bill No. 2177 authorizes the display of a religious object or document in a public school if the object or document has cultural, legal, or historical significance, or has influenced the legal and governmental systems of the United States and this state.

House Bill No. 1437 provides that a student may pray aloud or participate in religious speech at any time a student is permitted to voluntarily speak or participate in secular speech.

House Bill No. 1142 provides that the statutory definition of a student with disabilities does not extend to an individual who is at least 18 years of age but not yet 21 and incarcerated in an adult correction facility unless, in the individual's last educational placement prior to incarceration, the individual was identified as being a student with a disability and had an individualized education program or services plan.

House Bill No. 1371 provides that a person who enrolls a child of age 6 in a public school must ensure that the child is in attendance for the duration of the school year. If the child is withdrawn, the child may not be reenrolled until the following school year.

Senate Bill No. 2444 requires a law enforcement agency to notify a principal in writing if the agency has probable cause to believe that a student enrolled in the school has violated laws relating to controlled substances, imitation controlled substances, or poisons and deleterious preparations.

House Bill No. 1267 authorizes the creation or designation of a school law enforcement unit and provides for the disclosure of certain court records to officials of the school in which the student is enrolled or wishes to enroll if the child appears to present a danger to self or to the students or staff of the school.

TEACHERS

Senate Bill No. 2412 authorizes the Education Standards and Practices Board to issue a lifetime teaching license to a teacher who has been licensed for 30 years.

Senate Bill No. 2035 requires the Education Standards and Practices Board to deny a teaching license or to revoke a teaching license if the individual has been found guilty of a crime against a child or a sexual offense. A sexual offense is defined to include surreptitious intrusion.

House Bill No. 1326 limits fines imposed by the Education Standards and Practices Board to $250 per incident. The bill also places an additional school board member on the Education Standards and Practices Board.

House Bill No. 1225 provides that the fingerprint requirement, which is part of the teaching license application process, may be taken by a law enforcement officer or by a properly trained designee of the law enforcement officer.

House Bill No. 1465 allows for the implementation by the Superintendent of Public Instruction of a special education strategist credential, a provisional special education strategist credential, and a mental retardation credential.

SCHOOL BOARDS AND SCHOOL DISTRICTS

Senate Bill No. 2106 requires the waiver of open enrollment application dates with respect to a student who moves into this state from a location outside the state and who wishes to enroll in a school district other than the district into which the student moved. The bill also precludes a school district from exerting direct influence upon a student or the student's family to encourage participation in an open enrollment program.

Senate Bill No. 2323 provides that a student whose school district of residence is a military installation school district may participate in open enrollment.

Senate Bill No. 2148 provides that pending annexations that involve any real property included in a reorganization petition are void until the completion of the reorganization proceedings.

House Bill No. 1141 requires reorganization plans to specify whether the interim fund of each participating district is to be wholly or partially allocated to the general fund of the reorganized district. Reorganization bonuses are to be made available to a district that consists of at least 800 square miles, or that consists of at least 500 square miles, has a student enrollment of at least 520, and has no practical reorganization alternatives that would allow it to meet the 800 square mile requirement. Two or more districts that vote to study the feasibility and desirability of reorganizing are eligible to receive an advanced reorganization payment of $15,000.

House Bill No. 1335 provides that an individual who is elected or appointed to a school board must take an oath of office or affirmation within 10 days of election or appointment. A refusal to do so is deemed to be a refusal to serve and a failure to qualify for the office.

House Bill No. 1236 removes specific exceptions in the law that were enacted because the Fargo School District held its annual elections in April and terms of office began at the first regular monthly meeting thereafter. The terms of office for Fargo school board members will now begin at the annual board meeting in July.

Senate Bill No. 2166 clarifies that a school may seek from the Superintendent of Public Instruction permission to reconfigure the number of instructional days but may not reduce the number of instructional hours made available to students.

Senate Bill No. 2231 provides that a school board may establish a student financial institution as part of a high school educational program.

FINANCE

House Bill No. 1344 provides a distribution mechanism for state aid dollars that includes reimbursement of school districts for teacher compensation increases. The bill also provides for a school district compensation report, sets minimum annual salary levels of $18,500 and $20,000 during each respective year of the biennium, and provides for declining enrollment payments.

House Bill No. 1301 appropriates $1,665,000 to the Superintendent of Public Instruction for the payment of school district reorganization bonuses.

House Bill No. 1321 requires the Superintendent of Public Instruction to pay $425 for each student who has negligible limited English language skills, $325 for each student who has very limited English language skills, and $225 for each student who has limited English language skills.

Senate Bill No. 2147 provides that for purposes related to the payment of tuition, kindergarten students will receive the same consideration as elementary school students and decisions of a school board with respect to kindergarten students are appealable to the State Board of Public School Education.

Senate Bill No. 2430 alters the manner in which state payments to school districts are distributed so that school districts will receive 10 percent of the amount due before August 2 and September 2, and 20 percent on October 1. Before November 2, approximately 60 percent of the total amount due is to have been distributed. Before the second day of December, January, February, March, and April, payments equal to approximately 20 percent of any remaining amount are to be distributed.

House Bill No. 1058 provides that if the Superintendent of Public Instruction receives any federal or other moneys to pay programmatic administrative expenses for which the Superintendent received a state general fund appropriation, the Superintendent must transfer the money to the state tuition fund.

House Bill No. 1346 removes the requirement that the Superintendent of Public Instruction enter a reciprocal contract regarding the attendance of students in bordering states and obligations for the payment of tuition. The bill instead authorizes a school district in this state to contract with a school district in a bordering state for the education of students.

MISCELLANEOUS

House Bill No. 1045 completes the rewrite of those provisions of North Dakota Century Code Title 15 which relate to elementary and secondary education.

Senate Bill No. 2366 raises the compensation of education factfinding commission members and of factfinders appointed by the commission from $62.50 to $80 per day.

Senate Bill No. 2201 removes a future interest and a covenant from deeds transferring land from this state to the Devils Lake School District.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 16.1
Elections
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 16.1. Bills primarily affecting other titles 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: legislative vacancies; campaign contributions; petitions; absentee voting; and miscellaneous.

LEGISLATIVE VACANCIES

Senate Bill No. 2230 removes the authority of the Governor to call a special election to fill a legislative vacancy, and establishes a procedure through which a vacancy may be filled by the district committee of the political party that the former member of the Legislative Assembly represented. The bill requires the chairman of the Legislative Council, upon receiving notification of a vacancy in the Legislative Assembly, to notify the district committee of the political party that the former member represented in the district in which the vacancy exists. The bill requires the district committee to hold a meeting within 21 days after receiving the notification and select an individual to fill the vacancy. The bill provides that if the former member was elected as an independent candidate or if the district committee does not make an appointment within 21 days after receiving the notice from the chairman of the Legislative Council, the chairman of the Legislative Council is required to appoint a resident of the district to fill the vacancy. The bill provides that if 828 days or more remain until the expiration of the term of office for that office, the individual appointed to fill the vacancy shall serve until a successor is elected at the next general election to serve for the remainder of the term of office for that office.

CAMPAIGN CONTRIBUTIONS

House Bill No. 1426 provides that for the purposes of the laws relating to campaign contributions, the term "corporation" includes nonprofit corporations. The bill provides that a person who is soliciting or accepting contributions for the purpose of aiding or opposing the circulation or passage of a statewide initiative or referendum petition or a measure placed upon a statewide ballot by action of the Legislative Assembly is required to submit a contribution statement even if the person has not received any contributions in excess of $100 during a reporting period. The bill also provides that even if a political committee has not received a contribution or made an expenditure in excess of $200 during a reporting period, the political committee is required to file a statement of contributions as required by law. The bill includes a political party and committee within the requirement to file a supplemental contribution statement within 48 hours after receipt of a contribution if the political party or committee receives a contribution in excess of $500 in the 20-day period before any election.

The bill provides that a contribution statement required to be filed with the Secretary of State is deemed to be properly filed if postmarked and directed to the Secretary of State by mail within the prescribed time. The bill provides that unless otherwise provided by law, a candidate, political party, committee, or person may not be charged a fee for filing a contribution statement. The bill repeals the provision of law which prohibits a candidate from accepting a contribution in an amount exceeding $200 from another candidate's campaign contributions, from contributions made to a person who was a candidate within the previous six months, or from a federal

campaign committee account unless the person who makes the contribution from such funds includes with the contribution a statement that the original contributors gave permission to contribute money to another candidate and the receiving candidate files a disclosure statement within 48 hours after receiving the contribution.

House Bill No. 1456 requires a political committee that accepts or solicits contributions for any political purpose to file a detailed list showing the name and mailing address of each contributor who contributed in excess of $200 in the aggregate to the committee during a reporting period, the amount of each reportable contribution in excess of $200, and the date each reportable contribution was received. The bill requires a political committee required to file such a statement to file the statement with the Secretary of State no later than the 12th day before the date of any primary, special, or general election. The bill also requires a political committee to file a complete statement for the entire calendar year no later than the 31st day of January of the following year in which the political committee received a reportable contribution. The bill also provides that even if a political committee has not received any contribution in excess of $200 during a reporting period, the political committee must file a contribution statement.

House Bill No. 1370 includes a political party within the requirement to file a supplemental contribution statement if the political party receives a contribution in excess of $500 in the 20-day period before any election from an individual contributor.

PETITIONS

House Bill No. 1352 provides the proper format for a recall petition. The bill provides that each petition signer must add the signer's complete residential, rural route, or general delivery address and the date of signing to the petition. The bill provides that a petition for recall must include, before the signature lines for the qualified electors, the name of the person being recalled, the office from which that person is being recalled, and a list of the names and addresses of not less than five qualified electors of the state, political subdivision, or district in which the official is to be recalled who are sponsoring the recall. The bill provides that a petition may not be circulated by a person who is less than 18 years of age. The bill requires the chairman of the sponsoring committee of a petition, when delivering the petition to the Secretary of State or other proper officer for filing, to submit an affidavit stating that to the best of that person's knowledge, the petitions contain at least the required number of signatures. The bill provides that the filing officer has a reasonable period, not to exceed 30 days, in which to pass upon the sufficiency of a recall petition. The bill requires the filing officer to conduct a representative random sampling of the signatures contained in the petitions by the use of questionnaires, postcards, telephone calls, personal interviews, or other accepted information gathering techniques to determine the validity of the signatures. The bill requires the filing officer to report any violations of law discovered by the filing officer to the state's attorney for prosecution.

House Bill No. 1331 provides that each signer of an initiative, referendum, or recall petition must include the signer's complete residential address or rural route or general delivery address on the petition. The bill also provides that an initiative petition may be circulated for one year from the date it is approved for circulation by the Secretary of State.

ABSENTEE VOTING

Senate Bill No. 2372 requires officers authorized to distribute absent voter's ballots to ensure all ballots are secure at all times and accessible only to those persons under the officer's supervision for distribution. The bill provides that each person requesting an absent voter's ballot must be provided a set of instructions, prescribed by the Secretary of State, sufficient to describe the process of voting by absent voters' ballot. The bill provides that the voting instructions must contain a statement informing the individual that the individual is entitled to complete the absent voter's ballot in secrecy.

House Bill No. 1354 provides that an absent voter's ballot may be accepted if the ballot contains an official mark other than a postmark by the United States Postal Service or other mail delivery system.

MISCELLANEOUS

House Bill No. 1047 permits election board members and poll challengers to request identification from challenged voters to address voting eligibility concerns.

House Bill No. 1318 includes within the definition of a "corrupt practice" the use of services or property of a political subdivision for political purposes. The bill provides that a political advertisement paid for by an individual candidate or group of candidates must disclose that the advertisement was paid for by the individual candidate or group of candidates. The bill provides that the first and last name or names of the candidates paying for the advertisement are not required to be disclosed. The bill changes the filing deadline for a petition to be a candidate to fill a vacancy on a no-party ballot for a state office, the office of district judge, or a county or district office from 4:00 p.m. on the 56th day before the primary election to 4:00 p.m. on the 60th day before the election. The bill removes the requirement that the county auditor file with the Secretary of State the names and addresses of the persons who are elected to the various offices in the county at the time the county auditor transmits the certified abstract of votes cast in the county. The bill repeals a section providing for the use of stickers to place a name on the ballot after a vacancy occurs and the ballots are printed.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 18
Fires
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 18. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1118 modifies the fire inspection requirements for state buildings and institutions. The bill requires the State Fire Marshal to make annual inspections of the Developmental Center at Westwood Park and the Veterans Home and requires inspections of all other state institutions and occupied state-owned buildings at least once every three years unless the building is a residential building that must be inspected every year. The bill also updates the standards to be used in performing a fire inspection.

House Bill No. 1323 changes eligibility requirements for participation in the fund created from a premium tax on fire insurance companies and changes references to the "firemen's" association to the "firefighter's" association.

House Bill No. 1423 removes the Uniform Building Code and Uniform Mechanical Code as references and aids in the interpretation of the fire prevention code for school buildings and adds the State Building Code as a reference and aid in interpretation.

Senate Bill No. 2057 changes the formula for calculating the amount of a firefighters relief association retirement benefit, resulting in an increase in benefits. The bill also provides the requirements and benefit calculation formula for firefighters relief association disability benefits.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 19
Food, Drugs, Oil, and Compounds
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 19. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to food, drugs, oil, and compounds may be classified in these subject areas: drug offenses; agriculture; and pharmacy.

DRUG OFFENSES

House Bill No. 1364 removes mandatory imprisonment for first-time drug offenses.

Senate Bill No. 2444 moves the crime for the inhalation of vapors of a volatile chemical and crimes relating to drug paraphernalia from Title 12 to Title 19. The bill adds as drug paraphernalia ingredients or components to be used or intended or designed to be used in making drugs whether or not otherwise lawfully obtained, including anhydrous ammonia, nonprescription medications, or lawfully dispensed controlled substances. The bill adds as a relevant factor for a court to consider in determining whether an object is drug paraphernalia the actual or constructive possession of written instructions, directions, or recipes used to make a drug. The bill requires the person who violates a drug paraphernalia law to undergo a drug addiction evaluation. The bill requires the evaluation to be submitted to the court when imposing punishment for a felony violation and allows submission for a misdemeanor violation. The bill requires a certified copy of an analytical report signed by the state toxicologist to be accepted as prima facie evidence in an imitation controlled substance case. The bill provides that the state is not required to prove that a conspirator knew the other person to the agreement intended to deliver or possess with the intent to deliver a controlled substance, an imitation controlled substance, or drug paraphernalia to a third person. The bill also clarifies the requirements for the sentencing of dangerous special offenders.

House Bill No. 1367 broadens aggravating factors that result in a one-level increase in the classification of offenses for drug offenses. The bill broadens the aggravating factor of delivering a controlled substance to a minor by lowering the minimum age required of the defendant from 18 to 16 years of age. The bill lowers the amount of heroin and cocaine needed to be involved in an offense to be an aggravating factor from 100 grams of heroin and 500 grams of cocaine to 50 grams. The bill expands the definition of the amount of LSD needed to be involved in an offense to be an aggravating factor from 1 gram to 1 gram, 100 dosage units, or one-half liquid ounce. The bill creates 50 grams of methamphetamine; 10 grams, 100 dosage units, or one-half liquid ounce of ecstasy; 100 dosage units or one-half liquid ounce of GHB; 100 dosage units or one-half liquid ounce of flunitrazepam (Rohypnol); and 500 grams of marijuana as aggravating factors.

Senate Bill No. 2445 requires the Attorney General to report to an interim legislative committee on the current status and trends of unlawful drug use and abuse and drug control and enforcement efforts in this state.

AGRICULTURE

House Bill No. 1009 allows money in the environment and rangeland protection fund to be used to address issues relating to harmonization of crop protection product standards. The bill extends the present law for the registration of pesticides from an end date of June 30, 2001, to June 30, 2003, and delays implementation of registration of pesticide law effective July 1, 2001, to July 1, 2003.

Senate Bill No. 2111 makes technical corrections to citations and provides that a commercial feed or customer formula feed is adulterated if it has any filthy, putrid, or decomposed substance, or is otherwise unfit; it has been in a place with unsanitary conditions and may have become contaminated with filth; it is the product of a diseased animal or animal that has died otherwise than by slaughter and is unsafe under federal law; it has any poisonous or deleterious substance that may be injurious to health; or it has been intentionally subject to radiation unless the radiation was in conformity with federal law.

PHARMACY

House Bill No. 1096 allows prescriptions to be labeled "Rx Only." The bill adds that a person who is not a physician, dentist, veterinarian, pharmacist, or scientific investigator must be licensed, registered, or permitted by the jurisdiction in which the individual is practicing to be defined as a practitioner. The bill adds gamma-hydroxybutyric acid as a Schedule I controlled substance. The bill adds dronabinol in sesame oil and encapsulated in a soft gelatin capsule and gamma-hydroxybutyric acid in a Food and Drug Administration-approved drug product, and ketamine as Schedule III controlled substances. The bill adds zaleplon to the list of Schedule IV controlled substances that are depressants and modafinil as a stimulant that is a Schedule IV controlled substance. The bill allows a facsimile to serve as an original prescription for a Schedule II controlled substance if the patient is a hospice patient or resides in a licensed long-term care facility.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 20.1
Game, Fish, Predators, and Boating
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 20.1. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

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

LICENSES AND PERMITS

Senate Bill No. 2449 prohibits individuals from acting as a guide or outfitter without a license; acting as a certified guide or outfitter without first providing 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; acting as a hunting guide or outfitter on land owned by or private land enrolled by the department for the purpose of hunting; providing guiding or outfitting services to a person who has not obtained the appropriate license for the species sought by that person; or willfully and substantially misrepresenting that person's facilities, prices, equipment, services, or hunting or fishing opportunities as a guide or outfitter.

House Bill No. 1274 provides that white-tailed deer licenses sold to guides or outfitters and provided by them to nonresidents are to be made available to certified guides or outfitters.

House Bill No. 1238 provides that a county auditor and the board of county commissioners may execute an agreement providing for the disposition of compensation for the issuance of game and fish licenses. The bill also prohibits county auditors from providing fishing licenses to agents located outside the state but allows the director of the Game and Fish Department to provide licenses to agents located outside the state if there are no agents located a reasonable distance within this state where nonresidents may obtain game and fish licenses.

Senate Bill No. 2427 provides that persons who are unable to step from a vehicle without aid of a wheelchair, crutch, brace, or other mechanical support or prosthetic device or who are unable to walk any distance because of a permanent lung, heart, or other internal disease that requires the person to use supplemental oxygen to assist breathing are entitled to convert a deer hunting license to a license to take any sex or species of deer in the unit or subunit for which the license is issued and may apply for a license to hunt deer regardless of whether that person received a license to hunt deer in any prior year.

GAME AND FISH DEPARTMENT

Senate Bill No. 2025 establishes a deerproof hay yard program. The deerproof hay yard program must provide materials and supplies at no cost to landowners for the establishment of deerproof hay yards to protect hay or feed on private property with deer depredation problems.

The director of the Game and Fish Department may not discriminate against or penalize a landowner applying for or participating in the program on the basis of that landowner allowing hunting in exchange for compensation.

House Bill No. 1070 authorizes the director of the Game and Fish Department to issue complimentary lifetime resident certificates and combination licenses to resident certified hunter education volunteer instructors as a means of rewarding dedication to teaching firearm hunter safety.

Senate Bill No. 2353 allows handicapped persons to shoot wildlife from stationary motor vehicles on lands controlled by the Board of University and School Lands if the person designates the land on which that person intends to hunt and has permission from the lessee and the Commissioner of University and School Lands.

GUBERNATORIAL PROCLAMATIONS

Senate Bill No. 2345 revises the muzzleloading firearm season from a nine and one-half consecutive day season following the regular deer hunting season to a season following the regular deer hunting season established by the Governor by proclamation.

House Bill No. 1356 requires the Governor to provide by proclamation for spearfishing from dark houses and provides that nonresidents may spearfish in this state if the nonresident's state of residence provides the same privilege for North Dakota residents.

MISCELLANEOUS

Senate Bill No. 2178 adopts the Interstate Wildlife Violator Compact.

Senate Bill No. 2051 requires applicants for a motorboat number and license to present proof of payment of sales or use tax that was due upon acquisition or bringing a motorboat into this state for storage or use in this state or to present proof of exemption from sales or use taxes.

House Bill No. 1075 requires the director of the State Game and Fish Department to obtain the written consent of the entity responsible for the management of state-owned lands before the director may establish a game refuge or state game or fish management area on those lands.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 21
Governmental Finance
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 21. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

House Bill No. 1196 places management and investment authority for the health care trust fund with the State Investment Board.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 22

Guaranty, Indemnity, and Suretyship

Summary of Bills Enacted by 2001 Legislative Assembly

There was no legislation enacted which 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

June 2001

TITLE 23
Health and Safety
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 23. Bills primarily affecting other titles 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 the following subject areas: medical records; emergency medical services; nursing homes and related facilities; tobacco usage; burial of the dead; mobile home regulations; pollutants, waste, and recycling; petroleum; vital statistics; health care directives; dental services; human immunodeficiency virus testing; and miscellaneous.

MEDICAL RECORDS

House Bill No. 1233 authorizes a health insurance company with a participating provider agreement to require that a subscriber or member be responsible for providing the insurer copies of medical records used for claims processing when using nonparticipating providers.

House Bill No. 1234 provides that notwithstanding any time limits on the validity of a medical records release, the release authorizes a medical provider to forward a patient's medical records to another medical provider during the period of time necessary to complete the patient's course of treatment and to continue all medical and financial aspects of the case.

EMERGENCY MEDICAL SERVICES

House Bill No. 1202 expands the State Department of Health's licensure authority from ambulance services to emergency medical services (EMS), which includes air ambulance services and quick-response unit services; requires the department to limit the issuance of a quick-response unit service license based on the needs of the service area if the operation was licensed as an ambulance service before the effective date of the act; provides that an EMS operation with a single headquarters site may dispatch vehicles and personnel from more than one location if calls requesting services are received and orders for vehicle dispatch are made at the single headquarters site; and creates a quick-response unit service pilot program that will be effective through June 30, 2003.

House Bill No. 1282 provides that a provider of emergency medical services may refuse to transport an individual for which transport is not medically necessary and may recommend an alternative course of action to that individual and provides that such a provider of emergency medical services is not liable to that individual for damages unless the damages resulted from intoxication, willful misconduct, or gross negligence.

NURSING HOMES AND RELATED FACILITIES

House Bill No. 1109 permits the State Department of Health to license assisted living facilities for food and lodging through the boardinghouse definition. The bill adds two requirements to the basic care definition regarding the need for staff to be available 24 hours per day and expands the definition to include Alzheimer's dementia or special memory facilities.

House Bill No. 1196 expands the moratorium on basic care bed capacity and long-term care bed capacity from July 31, 2001, to July 31, 2003. The bill also permits the transfers of beds from one municipality to a tribal reservation during the moratorium only to the extent that the facility transferring beds reduces the facility's licensed capacity by an amount equal to twice the number of beds transferred. Not more than once during a 12-month period, a nursing facility may convert licensed nursing facility bed capacity to basic care bed capacity or vice versa. The bill requires that the facility provide at least 90 days' notice to the State Department of Health of the conversion and that all converted beds must be located in the same block of rooms within the facility.

Senate Bill No. 2098 expands the moratorium on basic care bed capacity and long-term care bed capacity from July 31, 2001, to July 31, 2003. The bill also permits the transfer of beds from one municipality to a tribal reservation during the moratorium only to the extent that the facility transferring beds reduces the facility's licensed capacity by an amount equal to twice the number of beds transferred. Not more than once during a 12-month period, a nursing facility may convert licensed nursing facility bed capacity to basic care bed capacity or vice versa. The bill requires that the facility provide at least 90 days' notice to the State Department of Health of the conversion and that all converted beds must be located in the same block of rooms within the facility.

TOBACCO USAGE

Senate Bill No. 2380 establishes a Community Health Grant Program with the primary purpose to prevent or reduce tobacco usage in the state by strengthening community-based public health programs and by providing assistance to public health units and communities throughout the state. The bill provides that the program must follow the Centers for Disease Control and Prevention's best practices for comprehensive tobacco control programs. The bill also establishes a Community Health Grant Program Advisory Committee. The purpose of the committee, whose members are appointed by the State Health Officer and several state agencies and associations, is to provide assistance to the tobacco use prevention or reduction programs funded by the community health grant program. The bill also provides that the State Department of Health and public health units may accept any gifts, grants, or donations to fund the program.

BURIAL OF THE DEAD

House Bill No. 1126 repeals the current law regarding the deposit of payments on pre-need funeral contracts and recreates this repealed law as a new section in a chapter regulating pre-need funeral contracts.

House Bill No. 1154, to reflect repealed laws relating to the military, removes the requirement that persons owning, conducting, or maintaining cemeteries comply with repealed statutory requirements regarding transmittal of information regarding burial of individuals who served in the military.

Senate Bill No. 2443 requires a person with a duty of burial or the personal representative of a decedent's estate to honor pre-need funeral arrangements of the deceased.

MOBILE HOME REGULATIONS

House Bill No. 1240 provides the notice requirements an owner of a mobile home park must comply with if the owner applies for rezoning of the park and if the zoning in a park is changed. The bill also provides an owner or a manager of a mobile home park may not increase rent within 90 days before giving notice of a change in use for a portion of the park to which the change will apply.

House Bill No. 1242 provides the amount of a mobile home security deposit may not be modified after the initial lease agreement between a mobile home park owner and a tenant has been executed by both parties.

POLLUTANTS, WASTE, AND RECYCLING

House Bill No. 1297 provides that a person who acquired property is not liable for any existing hazardous waste on the property if the person acquired the property after the disposal of the hazardous waste and at the time the person acquired the property the person did not know of the hazardous waste; the person is a governmental entity that acquired the property by escheat, tax sale, foreclosure, or other involuntary acquisition or through the exercise of eminent domain by purchase or condemnation; or the person acquired the property by inheritance and that person did not know of the hazardous waste.

Senate Bill No. 2138 repeals the law requiring the State Health Council to adopt rules regarding the required rates of degradation and allowable byproducts of degradation for plastic; repeals the law regulating the sale and manufacture of plastic rings designed to connect containers; removes the specific label requirements for plastic bottles and rigid plastic containers; and provides that the State Health Council may adopt rules consistent with national or regional standards relating to the promotion of plastic bottle recycling and the maintenance of safe plastic bottle recycling practices.

PETROLEUM

House Bill No. 1391 extends from July 31, 2009, to July 31, 2011, the expiration date of the petroleum release remediation law; increases from three to five the membership of the Petroleum Release Compensation Board; increases the board's duties, including changing the board from an advisory board to a board that reviews decisions of the administrator; limits the fund's exposure as it applies to compensation of third-party corrective actions, bodily injuries to third parties caused by petroleum releases, and attorneys' fees, exemplary damages, criminal fines, and administrative penalties; allows for decrease of the annual registration fee based on the balance of the fund; and allows the Insurance Commissioner to purchase a contract for reinsurance of any risk to be paid by the fund.

Senate Bill No. 2393 prohibits any person other than the owner or the owner's agent from draining a liquefied petroleum gas container.

VITAL STATISTICS

Senate Bill No. 2327 changes the filing location for birth certificates and fetal death certificates from the local registrar to the state registrar. The bill also provides the location of filing death certificates remains with the local registrar unless the state registrar implements an automated system allowing local registrars to produce certified copies of death certificates, in which case the filing location becomes the state registrar.

HEALTH CARE DIRECTIVES

Senate Bill No. 2341 makes several changes to the law relating to advance health care directives, including changing who may witness or notarize a directive and clarifying that nonstatutory forms may be used and may be valid.

DENTAL SERVICES

Senate Bill No. 2004 requires the State Department of Health to contract with the North Dakota Dental Association to develop and administer a donated dental services program through which volunteer dentists provide comprehensive dental care for needy, disabled, aged, or medically compromised individuals.

HUMAN IMMUNODEFICIENCY VIRUS TESTING

House Bill No. 1296 provides the human immunodeficiency virus record maintenance law pertains to persons that "collect" specimens of bodily fluids or tissues instead of persons that "obtain" those specimens.

Senate Bill No. 2451 changes the law relating to human immunodeficiency virus testing of a dead individual who may have significantly exposed another individual to the human immunodeficiency virus, by requiring facilities that receive the dead individual to perform testing for bloodborne pathogens, including the human immunodeficiency virus, hepatitis B, and hepatitis C. The bill also provides that if the required testing is not performed an individual who was significantly exposed may access the dead individual's medical records regarding bloodborne pathogens.

MISCELLANEOUS

House Bill No. 1457 removes the requirement that a landlord may require a tenant, on taking occupancy, to sign a certificate stating that a smoke detection system is in proper working condition.

Senate Bill No. 2059 changes the law regarding health district budgets to provide that the amount budgeted and approved must be prorated according to the taxable valuation of the counties instead of according to the assessed valuation.

Senate Bill No. 2124 requires the State Department of Health to establish a program for implementing lead-based paint remediation training, certification, and performance requirements. The bill also requires the department to establish standards and procedures for the licensing of contractors and the certification of lead-based paint workers engaging in the abatement of lead-based paint and to establish performance standards for lead-based paint abatement. The bill authorizes the department to enter and inspect any property at which lead-based paint remediation activity is being conducted.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 24
Highways, Bridges, and Ferries
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 24. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

Senate Bill No. 2224 allows a person owning land adjacent to a highway to hay a no-mow or managed-mow area after July 15 without payment or penalty beginning January 1, 2004. The bill requires the director of the Department of Transportation to evaluate reasonable and appropriate environmental mitigation options and alternatives and to submit a plan to the Legislative Assembly to eliminate no-mow and managed-mow areas.

Senate Bill No. 2112 allows the Department of Transportation, subject to the approval of the Emergency Commission, to borrow moneys from the Bank of North Dakota to match federal emergency relief funds under the Transportation Equity Act for the 21st century.

House Bill No. 1167 clarifies language allowing the director of the Department of Transportation to establish grants of financial aid for study in undergraduate coursework in transportation-related fields. The bill increases the total amount allowed for grants per year from $10,000 to $20,000. The bill increases the amount an individual may receive within one year from $1,000 to $2,000 and in total from $3,000 to $6,000.

House Bill No. 1147 allows the use of personal motor vehicles, instead of vehicles from central vehicle management, to conduct state business and for using a personal motor vehicle, allows an agency to provide mileage reimbursement at less than the "state rate."

House Bill No. 1186 changes the formula for determining the cap on the mileage rate for a state employee who has a disability requiring a specially equipped vehicle by doubling the cap amount.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 25

Mentally Ill and Retarded, Tubercular, Blind, and Deaf
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 25. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to mentally ill and retarded, tubercular, blind, and deaf may be classified in these subject areas: state institutions and treatment facilities; civil commitment; and miscellaneous.

STATE INSTITUTIONS AND TREATMENT FACILITIES

House Bill No. 1012 increases the compensation for members of the governing body of the State Hospital from $62.50 per day to $100 per day.

House Bill No. 1038 provides for a definition of an individual who is blind. The bill also renames the North Dakota School for the Blind the North Dakota Vision Services - School for the Blind. The bill also sets out the duties and responsibilities of the North Dakota Vision Services - School for the Blind and removes the requirement that nonresidents must pay for services in advance.

House Bill No. 1104 removes the requirement that the State Auditor must approve a bond issued for the care and custody of funds belonging to patients of state institutions.

House Bill No. 1415 extends the moratorium on the expansion of residential treatment center for children bed capacity to June 30, 2003. The bill also provides that the Department of Human Services may license additional beds if a needs assessment conducted by the department indicates a need for additional beds. This bill became effective on March 27, 2001.

CIVIL COMMITMENT

Senate Bill No. 2034 changes the state's civil commitment of sexual predators statutes. The bill removes the exclusion of individuals with mental retardation from the statute; extends the time period for experts to complete evaluations from 30 days to 60 days; codifies the procedures to be used by the Penitentiary for referring inmates scheduled for discharge; clarifies what portion of commitment proceedings are open; provides for procedural due process safeguards for individuals with mental retardation; provides rulemaking authority for the Department of Human Services; and provides for individual rights for committed individuals.

MISCELLANEOUS

Senate Bill No. 2094 repeals North Dakota Century Code Section 25-16-11, which provided for a special fund for the deposit of funds appropriated to the Department of Human Services for the purchase of residential care, custody, treatment, and education for developmentally disabled persons.

Senate Bill No. 2239 defines metabolic disease as a disease for which early identification and timely intervention will lead to a significant reduction in mortality, morbidity, and associated

disabilities. The bill requires the Department of Human Services to provide medical food and low-protein modified food products to males under age 22 and females under age 45 who are diagnosed with phyenylketonuria or maple syrup urine disease, regardless of income. The bill also requires the birth attendant of an out-of-hospital birth to subject the newborn to testing for metabolic diseases.

Senate Bill No. 2365 defines "assistance dog" and "service dog." The bill also provides that a trainer with an assistance dog in training may enter any place of public accommodation without being required to pay an extra charge for the assistance dog. The bill requires motor vehicle drivers to take all reasonable precautions to avoid injury to an individual and the assistance dog and that an individual who fails to take reasonable precautions is liable to the individual for any injury.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 26.1
Insurance
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 26.1. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to insurance may be classified in six subject areas: Insurance Commissioner; insurance companies; health; auto; life; and miscellaneous.

INSURANCE COMMISSIONER

House Bill No. 1010 increases the Insurance Commissioner's salary from $62,855 to $64,742 through December 31, 2001, $66,684 through June 30, 2002, and $68,018 thereafter.

House Bill No. 1406 provides that the Insurance Commissioner's duty to send a copy of the commissioner's annual report to the Insurance Commissioner of every state and to each company doing business in this state only arises if the out-of-state commissioner or the business requests the report.

INSURANCE COMPANIES

House Bill No. 1176 makes multiple amendments to the law regarding allowable investments for domestic insurance companies; increases from $50,000 to $100,000 the maximum allowable compensation a domestic life insurance officer or agent may receive without authorization by the company's board of directors; amends the law regarding allowable acquisitions of subsidiaries by domestic insurance companies; removes the provision that prohibited an insurer providing commercial insurance to estimate the amount of premium to be refunded to or paid by the insured during the period allowed to conduct an audit; and amends the law regarding under what circumstances a domestic ceding insurer may be allowed credit for reinsurance.

House Bill No. 1198 provides that for purposes of commercial insurance, a policy transferred to an insurer within the same insurance holding company system is neither treated as a cancellation nor a nonrenewal; for purposes of property and casualty insurance, a policy transferred between companies within the same insurance holding company system is not a termination; and for purposes of automobile insurance, a policy transferred to an insurer within the same insurance holding company system is not a termination. The bill also provides notice requirements in the case of transferred policies.

House Bill No. 1303 requires a county mutual insurance company to report annually to the Insurance Commissioner and authorizes the commissioner to require additional reports and filings. The bill also increases from 20 to 30 the maximum number of counties from which a group of people may form a county mutual insurance company.

HEALTH

House Bill No. 1137 applies the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996 guaranteed renewability provisions to individual plans issued under the state's

Comprehensive Health Association of North Dakota (CHAND) law and provides that under CHAND a qualified Medicare supplement plan includes a Medicare supplement plan A.

House Bill No. 1226 allows an insurer to issue a basic health insurance policy without certain mandated services on an individual basis or an employer group, blanket, franchise, or association basis for employers with fewer than 50 employees.

House Bill No. 1365 requires a health insurance insurer that provides coverage for prescription drugs and issues a card or other technology for prescription drug claims processing to issue a uniform card or use other technology containing uniform drug information.

Senate Bill No. 2210 requires an insurer or administrator of certain employer's employee health plans to provide an annual report to the employer.

Senate Bill No. 2239 changes the limitation on the per year expenditure for low-protein modified food products to include medical food and does not require coverage for benefits otherwise provided by the State Department of Health or the Department of Human Services.

Senate Bill No. 2302 expands the definition of a health care service utilization review to include a retrospective review of medical necessity which is conducted after services have been provided to a patient and provides procedural provisions related to retrospective reviews.

Senate Bill No. 2326 provides that comprehensive health association health coverage terminates if the covered individual physically resides outside the state for more than 182 days of each plan year, unless the absence is due to a verifiable medical reason.

House Bill No. 1144 requires health insurance coverage for breast reconstruction surgery under the federal Women's Health and Cancer Rights Act. The bill also increases the requirements that a small-employer employee health insurance carrier and a hospital and medical insurance carrier must comply with in order to modify coverage at renewal by requiring that the modification be reasonable and that the carrier provide advance notice of the decision to modify to the affected employers, participants, beneficiaries, and Insurance Commissioner.

AUTO

House Bill No. 1378 provides an automobile insurer may exclude or restrict the coverage of a named individual, individuals, or a class of individuals; the limitations of these restrictions; and the personal liability of an insured who consents to the excluded person operating a secured motor vehicle.

Senate Bill No. 2318 provides that the marketing, selling, offering for sale, issuing, making, providing, or proposing to make and the administering of a property service contract is not subject to the law regulating insurance and provides a definition of a property service contract. The bill also repeals several of the laws relating to automobile warranty insurance and requires an automobile dealer or third-party administrator who issues an automobile warranty, automobile mechanical breakdown contract, or automobile service contract to maintain a policy of insurance providing coverage for the dealer's or administrator's contractual obligation.

House Bill No. 1189 prohibits an insurer from relying on the cancellation of a minor's driving privileges under the graduated driver's license system as the sole reason to cancel the automobile insurance policy of the minor or the parent of the minor unless the points or offenses would otherwise be cause for the denial.

LIFE

Senate Bill No. 2150 repeals the chapter of law regulating viatical settlement contracts and creates a new chapter of law regulating viatical settlement contracts.

Senate Bill No. 2192 amends the law pertaining to the North Dakota Life and Health Insurance Guaranty Association, providing what type of coverage is and is not offered for equity indexed life and annuity products.

Senate Bill No. 2246 limits the duties of a trustee regarding the acquisition, retention, or ownership of a life insurance policy upon the life of any grantor of the trust or the grantor's spouse, children, or grandchildren and limits the liability of the trustee to the beneficiaries under the trust for a loss that is claimed to result from the absence of these duties.

MISCELLANEOUS

Senate Bill No. 2127 provides insurers may not disclose nonpublic personal information in a manner contrary to the privacy provisions under Title V of the federal Gramm-Leach-Bliley Act, relating to financial services.

House Bill No. 1143 increases boiler inspection fees, reciprocal commission card for a special inspector fees, and certificate for boiler inspection fees; clarifies the mileage reimbursement rate for boiler inspections; and provides nonpayment of boiler inspection and certificate fees is a ground for nonissuance of a certificate of boiler inspection.

House Bill No. 1277 requires an insurer to accept a personal or business check from an employer as a payment method for a premium for an employee's individual accident and health insurance policy; however, this law does not apply to small employer health insurance groups.

Senate Bill No. 2144 makes extensive changes to the state's insurance law primarily to incorporate the National Association of Insurance Commissioners Producer Model Act relating to insurance agent licensure. The bill also repeals laws that do not comply with the federal Gramm-Leach-Bliley Financial Modernization Act.

Senate Bill No. 2143 replaces the existing law relating to credit insurance for life insurance and accident and health insurance with the Consumer Credit Insurance Model Act.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 27
Judicial Branch of Government
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 27. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

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

STATE COURTS

House Bill No. 1104 provides that applications for judicial retirement assessments must be made with the Supreme Court rather than the State Auditor.

Senate Bill No. 2002 provides for salary increases for the Supreme Court justices and district court judges.

Senate Bill No. 2274 permits the Supreme Court to make available in electronic form the forms used for small claims court actions.

Senate Bill No. 2383 changes the compensation for jurors from $25 per day to $25 for the first day and $50 for each subsequent day of service.

ATTORNEYS

House Bill No. 1071 changes the name of the State Bar Board to the State Board of Law Examiners.

Senate Bill No. 2396 repeals three sections of the North Dakota Century Code which dealt with an attorney's refusal to deliver a client's money or property and the furnishing of a bond.

CLERK OF DISTRICT COURT

House Bill No. 1207 creates a special court receivables fund in the state treasury for the deposit of any money received by the clerk of district court which is not required to be deposited in the state general fund. The bill provides for a continuing appropriation of the moneys in the fund to the judicial branch for the purposes of refunding bail, forwarding restitution amounts to the entitled recipient, or otherwise making payments as directed by the court. This bill became effective on March 15, 2001.

JUVENILES

House Bill No. 1267 provides that certain juvenile court files and records of a child who has been adjudicated delinquent for an offense that would be a felony if committed by an adult may be disclosed to a superintendent or principal of the school in which the child is enrolled or in which the child wishes to enroll if the child appears to present a danger to self or to the students or staff of the school. The bill also provides that a superintendent or principal of the school in which a child is currently enrolled or wishes to enroll may inspect law enforcement records and files of a child alleged or found to be delinquent, unruly, or deprived.

House Bill No. 1358 makes changes to the Uniform Juvenile Court Act with respect to timeframes for children held in shelter care. The bill provides that if a child is held in shelter care, a petition must be filed within 30 days of the initial shelter care hearing and that the hearing on the petition must be held within 60 days of the initial shelter care hearing. The bill also provides that a juvenile court supervisor's order is valid for 96 hours. Regarding temporary custody orders, the bill provides that after the shelter care hearing, the judge or referee is authorized to issue a custody order for up to 60 days. The bill clarifies that the interlocutory process can be used while service of process is being accomplished by publication. The bill also includes on the list of aggravated circumstances, the finding that a parent has to be found guilty of felony child abuse.

Senate Bill No. 2105 authorizes the Division of Juvenile Services to disclose juvenile files and records to law enforcement to assist in the apprehension of a juvenile who has committed a serious offense or who has escaped from a secure facility. The bill also identifies various persons, agencies, and institutions that regularly need access to juvenile records in the possession of the Division of Juvenile Services and creates an exception from the confidentiality provisions of the Uniform Juvenile Court Act for those persons, agencies, and institutions.

Senate Bill No. 2116 exempts tobacco-related offenses by minors over the age of 14 from the definition of an unruly child for juvenile court purposes.

Senate Bill No. 2220 provides that the expenses of transporting juveniles for medical and other examinations and treatment must be reimbursed to the county by the state agency that has custody of the juvenile. The bill also provides that the state agency must reimburse the county at the state mileage rate plus 29 cents per mile.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 28
Judicial Procedure, Civil
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 28. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

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

ADMINISTRATIVE PROCEDURE

House Bill No. 1027 requires agencies to notify interested parties when rules will be considered by the Administrative Rules Committee.

House Bill No. 1028 requires prior approval by the Governor before administrative rules may be given effect on an emergency basis and creates an additional reason for allowing emergency rulemaking, when emergency effectiveness is necessary to meet a mandate of federal law.

House Bill No. 1029 requires agencies to file comments received on rules with the Legislative Council when the rules are filed for publication.

House Bill No. 1030 revises the Administrative Agencies Practice Act to reorganize the provisions on administrative rulemaking. The bill reorganizes the chapter without substantive change.

House Bill No. 1228 would have allowed the Administrative Rules Committee to reopen review of existing administrative rules and to void all or any portion of a rule within 90 days after review of the rule is reopened. The bill would have required the committee to provide 30 days' advance notice to the adopting agency of the reason the review of the rule is reopened and the adopting agency would have been required to provide a written response. This bill was vetoed by the Governor and the veto was sustained.

House Bill No. 1451 authorizes the Administrative Rules Committee to request that an administrative agency brief the committee on its existing administrative rules and point out any provisions that appear to be obsolete and any areas in which statutory authority has changed or been repealed since the rules were adopted or amended. The bill also provides that, under certain conditions, an agency may amend or repeal a rule without complying with other requirements of the chapter.

House Bill No. 1455 provides that if an administrative agency's hearing officer issues the agency's final order, the petition for reconsideration must be addressed to the hearing officer, who may grant or deny the petition. The bill also provides that in an appeal to the district court from the determination of an administrative agency, the court must affirm the order unless the findings of fact made by the agency do not sufficiently address the evidence presented to the agency by the appellant; or the conclusions of law and order of the agency do not sufficiently

explain the agency's rationale for not adopting any contrary recommendations by a hearing officer or an administrative law judge.

Senate Bill No. 2446 excludes from the definition of administrative agency the Attorney General with respect to guidelines adopted for the risk assessment of sexual offenders, the risk level review process, and public disclosure of information under North Dakota Century Code Section 12.1-32-15.

JUDGMENTS

House Bill No. 1193 adds fees of sheriffs, clerks of district court, and the clerk of the Supreme Court to disbursements taxed in judgments.

Senate Bill No. 2160 provides that a writ of execution issued by the Department of Human Services does not need to include the attestation in the name of the judge of the court that entered the judgment.

Senate Bill No. 2196 provides that an execution on money retained pursuant to garnishment must be made between 20 and 270 days after service of the garnishment summons.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 29
Judicial Procedure, Criminal
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 29. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1092 repeals North Dakota Century Code (NDCC) Sections 29-03-15 and 29-03-16. These sections relate to the jurisdiction of a criminal action when a prisoner escapes or attempts to escape from the State Penitentiary or a county jail. This bill became effective on February 16, 2001.

Senate Bill No. 2035 expands the statute of limitations for gross sexual imposition to seven years.

Senate Bill No. 2077 provides that the Supreme Court may provide by rule the procedure by which a final judgment entered under NDCC Chapter 29-32.1 may be reviewed by the court.

Senate Bill No. 2081 provides that a defendant who requests appointed counsel must submit an application and a $25 application fee. The bill provides that if the fee is not paid before disposition of the case, the fee amount must be added to the amount of costs to be reimbursed by the indigent person. The bill provides that the fee is to be deposited in the indigent defense administration fund to be used for the administration of the indigent defense system.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 30
Judicial Procedure, Probate
Summary of Bills Enacted by 2001 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

June 2001

TITLE 30.1
Uniform Probate Code
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 30.1. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

Senate Bill No. 2075 adopts the Uniform Disclaimer of Property Interests Act. The bill governs the disclaimer of a property interest by a person with any interest in or power over property.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 31
Judicial Proof
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 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.

House Bill No. 1208 requires the court to order any person convicted of certain felony offenses after July 31, 2001, to have a sample of blood or other body fluids taken by the Department of Corrections and Rehabilitation for DNA law enforcement identification purposes and for inclusion in the law enforcement identification data bases. The bill provides that the cost of the procedure is to be paid by the person being tested.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 32
Judicial Remedies
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 32. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills summarized in this memorandum.

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

CIVIL LIABILITY

Senate Bill No. 2280 provides that a person is liable for damages if that person willfully and knowingly damages or destroys any crop, livestock, or commodity that is being produced or has been produced for personal, commercial, or testing or research purposes. The bill provides that the person found by the court to have been damaged may recover reasonable attorneys' fees, exemplary damages, and twice the value of the crop, livestock, or commodity damaged and twice the actual production, research, testing, replacement, and development costs.

Senate Bill No. 2340 provides that a firearm manufacturer, distributor, or seller who lawfully manufactures, distributes, or sells a firearm is not liable to any person or to the estate, successor, or survivor of any person for any injury suffered, including wrongful death and property damage, because of the use of a firearm by another person. The bill provides that the limitations on liability do not apply if the injury resulted from the failure of the firearm to operate in a normal or usual manner due to defects or negligence in design or manufacture.

GARNISHMENT

House Bill No. 1342 provides that if the garnishee's answers to the garnishment disclosure form indicate that the amount withheld is less than $10, the garnishee is not required to return subsequent forms to the plaintiff until the amount withheld is $10 or more. The bill also provides that if a garnishee willfully fails to disclose as required by the chapter, the court may render a judgment against the garnishee for the lesser of the plaintiff's judgment against the defendant or 110 percent of the amount which remains unpaid.

MISCELLANEOUS

House Bill No. 1031 exempts park districts from the political subdivisions that have the authority to establish and maintain an insurance reserve fund. The bill authorizes a park district to include an amount for an insurance reserve fund in its annual general fund tax levy.

House Bill No. 1329 provides for immunity from civil or criminal liability for a financial institution or financial institution employee who participates in good faith in the making of a report, assisting in an investigation, or furnishing information to a government agency or law enforcement agency regarding the suspected exploitation of a disabled adult or vulnerable elderly adult.

Senate Bill No. 2123, which deals with acts and omission in rendering emergency medical aid, removes an obsolete reference to a date.

Prepared by the North Dakota Legislative Council staff
June 2001

TITLE 33
County Justice Court
Summary of Bills Enacted by 2001 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

June 2001

TITLE 34
Labor and Employment
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 34. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

House Bill No. 1183 provides if an employee is fired, separates from employment voluntarily, or is suspended from work, the employee's unpaid wages become due and payable at the next regularly scheduled payday.

Senate Bill No. 2153 provides the two-year statute of limitation on actions brought for the recovery of overtime, damages, fees, or penalties accruing under laws respecting the payment of wages, and specifically under the Fair Labor Standards Act of 1938, is tolled by the filing of a claim with the Commissioner of Labor until the commissioner determines the claim is not enforceable or the commissioner reassigns the claim to the employee.

Senate Bill No. 2226 expands the prohibited reasons for employer retaliation to include employee reporting of suspected violation of a federal, state, or local law, ordinance, or regulation; extends from 90 to 180 days the number of days an employee has to bring a civil action for employer retaliation; and provides the Department of Labor is to receive complaints for employer retaliation.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 35
Liens
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 35. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1194 provides the substantive requirements for a certificate of release of a mortgage and procedural requirements for executing a certificate of release for a mortgage.

House Bill No. 1132 removes the prerequisites for recordation by a register of deeds that a mortgage of real property contain an adequate statement as to the amount of indebtedness and the terms of interest.

House Bill No. 1192 increases from 15 to 30 days the notice period before a self-service storage facility lien sale and decreases from two years to six months the period of time a self-service storage facility lienholder is required to retain any unclaimed balance from a sale of property.

Senate Bill No. 2160 removes the authority of the Secretary of State to charge filing and information retrieval fees for child support liens on vessels.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 36
Livestock
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 36. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

Senate Bill No. 2347 provides a process for the condemnation of diseased animals, subsequent appraisal of the animals, and the indemnity of the animals' owner.

House Bill No. 1104 allows compensation for members of the Board of Appraisers to be paid by the State Board of Animal Health and eliminates the State Auditor from having to issue vouchers for that purpose.

Senate Bill No. 2300 clarifies statutory provisions relating to the care and custody of abandoned animals, as well as their sale if unclaimed, and reimbursement to caregivers and lienholders.

Senate Bill No. 2214 expands the membership of the State Board of Animal Health to include an individual who represents the bison industry.

Senate Bill No. 2152 requires Internet livestock auction markets to be licensed by the Agriculture Commissioner.

House Bill No. 1322 provides that the North Dakota Stockmen's Association shall administer any federally sponsored animal identification program pertaining to cattle, horses, and mules.

Senate Bill No. 2404 continues authorization for the use of live beef or dairy cattle as raffle prizes and expands the authorization to include bison, sheep, and pigs.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 37
Military
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 37. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to the military may be classified in three subject areas: Adjutant General; veterans; and miscellaneous.

ADJUTANT GENERAL

House Bill No. 1154 repeals the duty of the Adjutant General to record a list of individuals who rendered military service during World War II and the Korean hostilities and the duty that the Adjutant General compile a record of the burial places within this state of individuals who served in the armed services in times of war.

House Bill No. 1180 broadens to whom the class of persons the Adjutant General may exchange or sell lands used for military purposes from state agencies and political subdivisions to any person. The bill broadens to whom the Adjutant General may lease parts of military installations from the Department of Defense and other federal agencies to any person. The bill allows the Adjutant General to convey land acquired from a political subdivision to that political subdivision when the land is no longer necessary for military purposes.

House Bill No. 1271 clarifies the procedure for appointing assistant adjutants general and limits appointment to an individual with not less than five years' commissioned service in the North Dakota National Guard who has attained the rank of lieutenant colonel.

VETERANS

House Bill No. 1374 allows for the issuance of an honorary high school diploma for World War II veterans who were honorably discharged from the United States armed forces.

Senate Bill No. 2284 removes the specific dates of service required for wartime veterans and replaces the dates with a reference to dates determined by the United States Department of Defense.

Senate Bill No. 2283 clarifies the language that allows an individual discharged from any branch of the armed forces to record that individual's discharge documents with the register of deeds.

Senate Bill No. 2260 increases the amount of a loan allowed to be made by the Department of Veterans Affairs to a veteran or surviving spouse from an amount not to exceed $2,000 to an amount not to exceed $5,000. The bill requires the Administrative Committee on Veterans Affairs to adopt rules establishing an appeal process for veterans who apply for financial assistance programs under the control of the Department of Veterans Affairs. The bill allows appeal from the department's decisions to an appeals committee appointed by the chairman of the

Administrative Committee on Veterans Affairs and makes the decisions of the committee final, whereas previously the decisions of the department were final.

MISCELLANEOUS

House Bill No. 1016 removes the termination date of July 7, 2001, of the fee system for the hazardous chemical preparedness and response program.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 38
Mining and Gas and Oil Production
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 38. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

Senate Bill No. 2120 reduces the percentage of royalty owners required to ratify a unitization agreement from 70 percent to 60 percent and reduces the approval requirement for persons required to pay the costs of a unit's operation from 70 percent to 60 percent.

Senate Bill No. 2099 increases the ceiling at which fees accumulated in the abandoned oil and gas well plugging and site reclamation fund must be deposited in the general fund from $50,000 to $250,000; authorizes the Industrial Commission to regulate coal bed methane gas and helium gas; and deletes helium and nitrogen from the definition of subsurface minerals for purposes of the regulation, development, and production of subsurface minerals. The change relating to the abandoned oil and gas well plugging and site reclamation fund becomes effective on July 1, 2003.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 39
Motor Vehicles
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 39. Bills primarily affecting other titles 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; size and weight limitations - commercial vehicles and drivers; rules of the road; title and registration; operator's license; and miscellaneous.

HIGHWAY PATROL

Senate Bill No. 2084 allows the Highway Patrolmen's retirement system to accept rollovers from other qualified plans for the purchase of additional service credit. The bill entitles a contributor to purchase additional credit for active employment in the armed services of the United States if the contributor is not presently receiving credit for that service. The contributor may purchase credit for an employer-approved leave of absence if the contributor is not presently receiving credit for that absence. A contributor who is a vested employee may purchase additional years of service credit to qualify for the normal retirement date by paying to the board an amount equal to the actuarial cost to the fund of providing the credit. The bill increases the multiplier for the first 25 years of credited service from 3.4 percent of final average salary to 3.6 percent of final average salary. The bill increases present beneficiaries of disability retirement benefits by six percent. The bill allows a contributor who has completed 10 years of eligible employment to designate a beneficiary other than the surviving spouse with written consent of the surviving spouse and allows a contributor to otherwise name beneficiaries. The bill creates rules for multiple beneficiaries and the death of a beneficiary. The bill allows the board to allow a member to purchase service credit with either pretax or aftertax moneys, at the board's discretion, if the board of trustees of the Public Employees Retirement System receives a letter ruling from the Internal Revenue Service that this does not jeopardize the qualified status of the Highway Patrolmen's retirement system.

DRIVING WHILE UNDER THE INFLUENCE

Senate Bill No. 2406 allows house arrest as imprisonment mandatorily required for driving under the influence. The house arrest must include electronic home detention in which the defendant is tested at least twice daily for alcohol consumption. The bill is limited to those defendants not committed to the Department of Corrections and Rehabilitation.

House Bill No. 1218 creates a drug court program, a district court supervised treatment program with alcohol and drug testing and treatment in a licensed treatment program. The drug court program is for offenders who have driven while under the influence three times within five years or four or more times within seven years.

SIZE AND WEIGHT LIMITATIONS - COMMERCIAL VEHICLES AND DRIVERS

Senate Bill No. 2054 creates special weight limitations for self-propelled fertilizer spreaders and self-propelled agricultural chemical applicators operating on highways not part of the interstate system. The bill provides a self-propelled fertilizer spreader may operate on these highways if

the spreader does not exceed 80,000 pounds and does not travel over 30 miles per hour when loaded over one-half capacity. In addition, the bill provides a self-propelled agricultural chemical applicator may travel on these highways if the gross weight does not exceed 45,000 pounds and the vehicle does not travel at speeds in excess of 30 miles per hour when loaded over one-half capacity. The bill requires the Highway Patrol to issue seasonal permits for self-propelled fertilizer spreaders and self-propelled agricultural chemical applicators exempted from gross weight limitations under the bill.

House Bill No. 1261 requires a person who violates the law by operating a motor vehicle in this state upon becoming gainfully employed in this state without obtaining registration from this state to purchase an annual registration from a law enforcement officer upon citation for the violation.

Senate Bill No. 2089 creates a $5 fee for faxing a permit for vehicles of excessive size or weight.

Senate Bill No. 2087 removes the provision that an intrastate driver begins a new seven-consecutive-day period and on-duty time is reset to zero following 24 consecutive hours off.

Senate Bill No. 2363 clarifies language prohibiting a state officer or employee from collecting traveling expense reimbursement while engaged in political activity.

House Bill No. 1199 exempts an individual operating a commercial vehicle at the request of and within a political subdivision during an emergency for the removal of snow and ice from having a commercial driver's license.

House Bill No. 1175 creates a special endorsement on a commercial driver's license for the driving of a schoolbus. The bill provides for mandatory disqualification from driving a commercial vehicle for not following laws relating to railroad-highway grade crossings, including failing to provide sufficient space to drive completely through a crossing without stopping and failing to negotiate a crossing because of insufficient undercarriage clearance. For a first violation, the disqualification is for not less than 60 days; for a second violation within a three-year period, the disqualification is for not less than 120 days; and for a third or subsequent violation within a three-year period, the disqualification is for not less than one year.

RULES OF THE ROAD

Senate Bill No. 2365 changes the individuals to whom a driver must yield the right of way from a blind pedestrian with a cane or guide dog to an individual who is blind or visually impaired with a cane and an individual with a disability who is accompanied by an assistance dog.

House Bill No. 1266 increases the penalty for a person leaving the scene of an accident involving death from a Class C felony to a Class B felony.

Senate Bill No. 2390 requires a driver to change lanes to the lane farthest away from an emergency vehicle stopped on a multilane highway if the change may be done safely. If a lane change may not be done safely, the bill requires the driver to reduce the speed of the vehicle and proceed with due caution.

Senate Bill No. 2088 changes fees and point demerits for driving in excess of the lawful speed limit. The bill provides for noncriminal fees for violation of motor carrier safety rules and regulations. The bill amends Senate Bill No. 2054 to clarify that seasonal permits are only issued for the commercial movement of self-propelled fertilizer spreaders and self-propelled agricultural chemical applicators. The bill clarifies equipment violations for which a person is guilty of an infraction.

TITLE AND REGISTRATION

House Bill No. 1184 allows the transfer of registration credit from a leasing company to a lessee on the purchase of a vehicle by the lessee from the leasing company. The bill requires the Department of Transportation to print on the reverse side of each registration card a temporary registration certificate to be used by the purchaser of a motor vehicle for 30 days after the date of acquisition. The bill becomes effective on April 1, 2002.

House Bill No. 1325 allows an individual with a 100 percent service-connected disability, in addition to a disabled veteran as previously allowed by law, to register a vehicle for a fee of $5.

Senate Bill No. 2158 allows the Adjutant General to require the deposit of the interest on the Veterans' Cemetery trust fund in the Veterans' Cemetery maintenance fund for the purposes of funding salaries and maintenance on the Veterans' Cemetery.

House Bill No. 1452 provides for the registration of experimental vehicles powered by some source other than combustion engine, muscle, or animal. The bill requires a chase vehicle and exempts experimental vehicles from certain equipment requirements.

House Bill No. 1289 provides for a decorative decal representing the insignia of the North Dakota Firefighter's Association to be provided to members of the association upon the payment of an additional annual fee of $15.

Senate Bill No. 2273 requires the seller of a motor vehicle to include the name of the purchaser and the selling price of the vehicle on the back of the title. The bill provides for requirements for motor vehicle dealer licensing, including the sale of at least four motor vehicles during the previous year for renewal and garage liability insurance. The bill requires a person engaged in a wholesale or retail auto auction business to possess a motor vehicle dealer's license. The bill prohibits a manufacturer, importer, or distributor of new motor vehicles from owning a motor vehicle dealership except for limited periods of time and makes it a Class A misdemeanor to do the same. The bill prohibits direct sales from manufacturers and franchisers except through a new motor vehicle dealer holding a franchise for the line make covering the new motor vehicle. The bill expands from three to five miles the area from which a secondary motor vehicle lot may be placed in relation to a primary lot and adds the requirement that the dealer's telephone number be placed on the sign at the secondary lot.

Senate Bill No. 2159 increases the registration fee for motor vehicles by $7 per vehicle. The bill removes the $10 fee for an applicant to choose a number other than the number randomly assigned effective January 1, 2003. The bill requires the transferor of a motor vehicle to use the retained number plate regardless of whether there is any registration fee credit remaining. The bill exempts house car dealers, manufacturers, and distributors from motor vehicle dealer

licensing requirements. The bill repeals the Lewis and Clark number plates on January 1, 2007. The bill allocates $2 of each registration fee to the state highway fund through June 30, 2003.

OPERATOR'S LICENSE

House Bill No. 1220 allows a minor who has lost that minor's license or permit under the "graduated licensure law" to regain a license or permit after completing an Internet course and 30 hours of driving with that minor's parent or guardian.

House Bill No. 1245 prohibits the use of a Social Security number on an operator's license unless specifically requested by an applicant. The bill becomes effective on January 1, 2002, and is implemented through the regular license issuance, renewal, and replacement procedures.

House Bill No. 1459 provides for the suspension of a person's driving privileges up to three months for a second conviction for driving away without paying for fuel. The license may be suspended for up to six months for a third or subsequent conviction.

House Bill No. 1189 allows the Department of Transportation to develop procedures for receiving changes of address for operator's license purposes by telephone or electronic means. The bill makes technical corrections allowing other means of communication besides mail to be used to make requests or notify others in relation to the department. The bill allows the suspension of a license by the director for failure to appear in court after signing a promise to appear when signing is required by law and for failure to appear when signing is not required by law. The bill lowers the reinstatement fee for a suspended license from $50 to $25 for a person whose license was suspended for a mental disability, a person required to take an examination who failed the examination and later successfully passed the examination, and a person with a physical or mental disability. The bill clarifies that if the license of a minor is canceled for excess points under the "graduated licensure law," and then the minor takes a driver training course, a three-point reduction will be applied after the period of cancellation. The bill removes the requirement that the director shall provide an extended temporary operator's permit if a hearing date for driving while under the influence is extended beyond 30 days from the issuance of the temporary permit.

Senate Bill No. 2012 prohibits the director of the Department of Transportation from requiring an applicant for the renewal, replacement, or substitution of a license to provide a Social Security card unless the applicant is changing the distinguishing number on the license to the applicant's Social Security number. The bill allows a distinguishing number other than a person's Social Security number to be used on a commercial driver's license if requested. The bill increases the speed limit on access control, paved and divided, multilane interstate highways from 70 to 75 miles per hour. The increased speed limit was vetoed by the Governor.

MISCELLANEOUS

House Bill No. 1185 removes the requirement that driver education vehicles have a license plate bearing the words "driver education." The bill allows the department to issue a vehicle identification number to a vehicle not otherwise assigned a number and may inspect the vehicle before issuing a certificate of title.

House Bill No. 1191 provides for the report of traffic offenses committed by an individual claiming diplomatic immunity to the United States Department of State.

House Bill No. 1239 allows a lower speed limit than 20 miles per hour to be designated by local authorities in a school zone and sets the penalty for speeding in a school zone at $40 for one through 10 miles over the posted speed and $40 plus $1 for each additional mile over 10 miles per hour over the limit unless a greater fee would be applicable under other speed limits.

Senate Bill No. 2289 requires any public or private entity to take action within 60 days after receiving official notification to comply with signage and marking requirements for mobility-impaired parking places.

Senate Bill No. 2027 requires the Department of Transportation to establish branch offices in Bowman, Emmons, and McKenzie Counties to be operated by the treasurer of the county by January 1, 2002. The branch office program expires on July 1, 2005.

House Bill No. 1174 defines highly restricted personal information as an individual's photograph, Social Security number, and medical or disability information for purposes of driver and motor vehicle record privacy. The bill prohibits the department from knowingly disclosing highly restricted personal information without the express consent, in writing, of the person to whom the information pertains, except as provided in limited circumstances. The bill changes the manner by which the department may disclose personal information for any other use in response to requests for individual motor vehicle records or for bulk distribution for surveys, marketing, or solicitations from if the department has provided in a clear and conspicuous manner on forms an opportunity to prohibit disclosure to if the department has obtained express consent of the person to whom the personal information pertains.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 40
Municipal Government
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 40. Bills primarily affecting other titles 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: renaissance zones, city officers, elections, tax levies, and miscellaneous.

RENAISSANCE ZONES

Senate Bill No. 2033 revises the renaissance zone law. The bill authorizes a city to apply to the Division of Community Services at any time during the duration of a zone to expand a previously approved renaissance zone that is less than 20 square blocks to not more than 20 square blocks. The bill provides that the use of grant funds as the sole source of investment in the purchase of a building or space in a building does not qualify a taxpayer for a tax exemption or credit available to renaissance zone investments, and grant funds may not be counted in determining if the cost of rehabilitation meets or exceeds the current true and full value of a building. The bill also authorizes a city to request the Division of Community Services to permit deleting a portion of an approved renaissance zone that is not progressing after five years and make a one-time adjustment of the boundaries to add another equal, contiguous area to the original zone. The bill allows an income tax exemption and property tax exemption for a taxpayer who rehabilitates residential or commercial property as a zone project. The bill provides that if the cost of a new business purchase or expansion of an existing business, approved as a zone project, exceeds $75,000, and the business is located in a city with a population of not more than 2,500, an individual taxpayer may elect to take an income tax exemption of up to $2,000 of personal income tax liability in lieu of the exemption on income derived from the business. The bill removes the December 31, 2004, expiration date for the historic preservation and renovation tax credit for investments made in historic preservation or renovation of property within a renaissance zone. The bill also reduces the credit for historic preservation and renovation from 50 percent of the amount invested to 25 percent of the amount invested, up to a maximum of $250,000. The bill provides that a taxpayer may not be delinquent in payment of state and local tax liability to be eligible for a tax benefit with respect to investments in a renaissance zone. The bill provides that the provisions relating to the income tax exemptions and property tax exemptions apply to zone projects approved after December 31, 1999, and the provisions relating to the historic preservation and renovation tax credits apply to zone projects approved after July 31, 2001.

House Bill No. 1460 provides that once the aggregate limit of $2,500,000 in renaissance zone tax credits has been exhausted, an additional $1,000,000 of credits is available for investments in renaissance fund organizations for taxable years beginning after December 31, 2000, for investments permitted under the renaissance zone law if more than 65 percent of the organization's net investments received has been invested as permitted under the renaissance zone law or the organization is established after the exhaustion of the initial limit. In addition, upon exhaustion of the initial limit, an additional $1,500,000 in credits is available for investments in renaissance zone fund organizations for taxable years beginning after

December 31, 2002, for investments under the renaissance zone law if more than 65 percent of the qualifying organization's net investments received has been invested as allowed under the renaissance zone law or the organization is established after the exhaustion of the initial limit. The bill also requires a renaissance fund organization to secure an annual audit of its financial records, prepared by an independent certified public accounting firm.

CITY OFFICERS

Senate Bill No. 2253 removes the statutory maximum salary limitations for city council members and commissioners and provides that those officers are entitled to compensation as established by ordinance.

ELECTIONS

House Bill No. 1335 provides that each city governing body that enters an agreement with a county for the use of a single canvassing board and the sharing of election personnel and expenses must notify the county auditor, in writing, at least 55 days before the election. The bill also provides that a candidate for elective office in a city may withdraw the candidate's nominating petition at any time before the deadline for filing nomination petitions.

TAX LEVIES

House Bill No. 1031 consolidates the park district mill levies for recreation, pest control, insurance, forestry, facilities, handicapped programming, and health insurance with the park district general fund levy. The bill provides that a park district may increase its general fund levy to any number of mills approved by a majority of the electors of the park district voting on the question at a regular or special park district election, up to a maximum general fund levy of 35 mills.

House Bill No. 1015 provides that property of the state within a city that has received state financial assistance for flood control is exempt from special assessments levied for flood control purposes. The bill provides that the exemption may be completely or partially waived by a majority vote of the Budget Section of the Legislative Council. The provisions of the bill relating to the special assessment exemptions become effective on July 1, 2001.

MISCELLANEOUS

Senate Bill No. 2146 removes the requirement that one copy of a city home rule charter be filed with the register of deeds for the county in which the city is located. The bill became effective on March 14, 2001.

Senate Bill No. 2365 provides that a city's dog license fees are waived for assistance dogs.

House Bill No. 1104 removes the requirement that various financial records of cities and entities established by cities be supervised by the State Auditor and that the county auditor of each county submit copies of the budget of each municipality to the State Auditor.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 41
Uniform Commercial Code
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 41. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1105 replaces the existing Uniform Commercial Code Article 9, relating to secured transactions with the revised Uniform Commercial Code Article 9, relating to secured transactions and corrects necessary cross references in other articles of the Uniform Commercial Code.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 42
Nuisances
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 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. 2102 creates the crime of owning or leasing a house or building that is habitually used in a manner that disturbs the peace, comfort, or decency of the immediate neighborhood and declares this to be a public nuisance. The bill exempts a lessee from an offense unless the lessee is the cause of the nuisance.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 43
Occupations and Professions
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 43. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

ABSTRACTERS

House Bill No. 1195 increases the fee an abstracter may charge for each entry on an abstract from $5 to $6 and increases the fee an abstracter may charge for a complete certification covering the records of the several county offices from $60 to $75.

PODIATRISTS

House Bill No. 1377 authorizes the Board of Podiatric Medicine, subject to approval by the Emergency Commission, to borrow funds sufficient to pay for attorneys' fees and costs incurred in investigations, administrative proceedings, and litigation resulting from the board performing its duties. The bill also authorizes the board to establish an annual renewal license fee for each year following the issuance of a loan, and provides that the fee must be maintained until the loan is fully repaid, including any accrued interest. The bill limits the amount of the annual renewal license fee to an amount not to exceed $1,000.

House Bill No. 1262 increases the membership of the Board of Podiatric Medicine from five persons to six persons. The bill provides that the additional member on the board must be designated as a public member and may not be affiliated with any group or profession that regulates or provides health care in any form. The bill also provides that a member of the Board of Podiatric Medicine may not serve for more than two successive terms, and a member may not be reappointed to the board after serving two successive terms unless at least two years have elapsed since the member last served on the board. The bill provides that in any order or decision issued by the Board of Podiatric Medicine in resolution of a disciplinary proceeding in which disciplinary action is imposed against a podiatrist, the board may direct the podiatrist to pay the board a sum not to exceed the reasonable and actual costs, including attorneys' fees, incurred by the board in the investigation and prosecution of the case. The bill authorizes the Board of Podiatric Medicine to suspend a podiatrist's license until the costs are paid to the board.

CONTRACTORS

House Bill No. 1424 changes the contractor license renewal requirements by increasing from $10,000 to $25,000 the value of projects completed during the previous year which must be listed by the contractor in the contractor's application for renewal.

House Bill No. 1138 requires a contractor who has been notified by the Secretary of State that the contractor's license is not in good standing to cease soliciting or entering new contract projects. The bill requires the Secretary of State to revoke the license of a contractor if the contractor fails to correct the deficiency specified in the notice by evidence satisfactory to the Secretary of State within 30 days of the date of the notice or if the contractor solicits or enters new contract projects while the contractor's license is not in good standing.

PRE-NEED FUNERAL CONTRACTS

House Bill No. 1126 repeals the provisions in Title 23 relating to the deposit of payments on pre-need funeral contracts and recreates those provisions as a new section in North Dakota Century Code (NDCC) Chapter 43-10.1, which regulates pre-need funeral contracts.

Senate Bill No. 2314 provides that upon written request, a purchaser of a pre-need funeral service contract may make a certain amount of the pre-need funds irrevocable. The bill provides that the irrevocable amount may not exceed the amount of the allowable asset exclusion used for determining eligibility for medical assistance at the time the contract is entered. The bill allows a purchaser of a pre-need funeral service contract 45 days from entering the contract to cancel the irrevocable part of the contract by giving notice to the cemetery association or licensed funeral establishment with whom the contract was entered. The bill also requires that a pre-need funeral service contract held by a cemetery association or a licensed funeral establishment be fully transferable to another cemetery association or funeral establishment that agrees to accept the obligations.

Senate Bill No. 2443 provides that as part of the sale of a pre-need funeral service contract, the seller must inform the purchaser of the extent to which the person with the duty of burial might be bound by any pre-need funeral arrangements.

COSMETOLOGISTS

Senate Bill No. 2371 defines the term "invasive care" with respect to the practice of cosmetology. The bill provides that "invasive care" means any procedure that invades the live tissue of the dermis, including certain laser use and certain chemical peels. The bill provides that "skin care" does not include invasive care. The bill provides that a school of cosmetology may be issued a license if it requires 600 hours of training and instruction in esthetics or 350 hours of training and instruction in manicure. The bill provides that a cosmetology school providing training and instruction limited to esthetics or manicure must employ at least one full-time instructor for the first 12 students enrolled and one additional instructor for each additional 12 students enrolled.

NURSES

House Bill No. 1360 authorizes the Board of Nursing to develop a strategic statewide plan to alleviate the nursing shortage in the state by establishing and maintaining a data base on nursing supply and demand in the state. The bill authorizes the Board of Nursing to convene various groups representative of nurses, other health care providers, business and industry, consumers, legislators, and educators to review and comment on data analysis prepared for the board; and recommend systematic changes, including strategies for implementation of recommended changes. The bill also authorizes the board to review and study the nursing educational requirements in the state and study the nursing shortage in the state and the implications for rural communities. The bill allows the board to increase any license or registration fees imposed by the board up to $15 to reimburse the board for actual expenses incurred in its study of nursing needs. The bill is effective through September 30, 2006.

Senate Bill No. 2114 provides for licensure of "specialty practice registered nurses." The bill changes references to "nurse assistant" to "unlicensed assistive person." The bill provides a transitional license may be granted to a registered nurse if the nurse meets all the requirements

for licensure by endorsement as a registered nurse, except the educational requirements. The bill provides that renewal of the transitional license is contingent upon proof of progression toward the academic requirements or 30 hours of continuing education. The bill exempts from the nursing license requirements a person who provides medications, other than by the parenteral route within residential treatment centers for children, treatment or care centers for developmentally disabled persons, group homes, residential child care facilities, adult foster care facilities, and human service centers. The bill also exempts from the nursing license requirements a nurse currently licensed to practice nursing by another jurisdiction whose practice in another state requires that nurse to attend orientation, meetings, or continuing education in North Dakota, who serves as a guest lecturer or short-term consultant, or who provides evaluation undertaken on behalf of an accrediting organization. The bill removes the $90 statutory per diem compensation for members of the Board of Nursing and authorizes the board to fix the daily compensation of board members. The bill authorizes the Board of Nursing to provide an alternative to discipline in situations involving impairments of chemical dependency or psychiatric or physical disorders or require evidence of evaluation and treatment.

OPTOMETRISTS

Senate Bill No. 2199 removes the requirement that a therapeutically certified optometrist who initiates treatment for primary open-angle glaucoma consult with a licensed ophthalmologist within 72 hours.

PHARMACISTS

Senate Bill No. 2350 requires the Board of Pharmacy to adopt rules regulating the administration of drugs by injection by a pharmacist. The bill also specifies the minimum requirements of the rules to be adopted by the board.

Senate Bill No. 2140 expands the types of institutional settings in which a licensed pharmacist has limited prescriptive practices to include physician clinics.

House Bill No. 1096 amends the definition of "prescription drug" or "legend drug" to include drugs labeled as "Rx Only."

PHYSICIANS

Senate Bill No. 2163 provides that a peer review committee must report to an investigative panel of the Board of Medical Examiners rather than the Commission on Medical Competency. The bill provides that a physician may challenge the reasonableness of any cost item in an administrative hearing before an administrative law judge, and the judge may approve, deny, or modify any cost item. The bill authorizes a temporary suspension of a physician's license if the Board of Medical Examiners determines by a clear and convincing standard that the evidence presented to the board indicates that the continued practice by the physician would create a significant risk of serious and ongoing harm to the public while a disciplinary proceeding is pending, and that immediate suspension of the physician's license is required to reasonably protect the public from that risk of harm. The bill removes the 60-day limit for an ex parte temporary suspension and provides that an ex parte temporary suspension remains in effect until a final order is issued after a full hearing or appeal. The bill reduces from 60 days to 30 days the period in which the Board of Medical Examiners is required to conduct a hearing on the merits of the allegations against a physician to determine what disciplinary action, if any, must be taken against the physician who is the subject of an ex parte suspension. The bill also

provides that a physician is entitled to a continuance of the 30-day period upon request for a period determined by the hearing officer. The bill requires an investigative panel, upon completion of an investigation, to make a finding that the investigation discloses that there is sufficient evidence to warrant further action, the conduct of the person investigated does not warrant further proceedings but the investigative panel determines that possible errant conduct occurred that could lead to significant consequences if not corrected, or the conduct of the person investigated may be grounds for disciplinary action that warrants further proceedings.

House Bill No. 1462 specifies that a physician assistant and any person licensed by the Board of Nursing who performs any diagnosis or treatment for any individual suffering from any wound, injury, or other physical trauma inflicted by the individual's own act or by the act of another by means of a knife, gun, or pistol must report the wound, injury, or trauma to a law enforcement agency in the county in which the care was rendered. The bill also provides that the specified individuals with a duty to report injuries must report injuries that the individual performing diagnosis or treatment has reasonable cause to suspect was inflicted in violation of any criminal law of the state. The bill provides that when a report of domestic violence or a report of physical injury resulted from a sexual offense is made to a law enforcement agency by a physician, physician assistant, or an individual licensed by the nursing board, the injured individual must be provided with information regarding a domestic violence sexual assault organization or other victims' assistance program unless it is known that the information has previously been provided to the injured individual.

Senate Bill No. 2141 provides that a physician assistant may be delegated by a supervising physician to prescribe Schedule III through V controlled substances. The bill also requires a physician assistant who is a delegated prescriber of controlled substances to register with the federal Drug Enforcement Administration. The bill removes the requirement that the prescription container label bear the name of the supervising physician and removes the requirement that the State Board of Medical Examiners annually notify the Board of Pharmacy of each physician assistant who is authorized to prescribe medications.

Senate Bill No. 2117 provides that for purposes of a temporary suspension by the State Board of Medical Examiners, any medical record of a patient or other document containing personal information about a patient which is obtained by the board is an exempt record as defined under the open records laws.

DENTISTS AND DENTAL HYGIENISTS

Senate Bill No. 2276 appropriates $180,000 for the 2001-03 biennium to provide funds for a dentist loan repayment program. The bill requires the State Health Council to annually select from a pool of applicants no more than three dentists to provide dental services to communities in the state and who will be eligible to receive funds for the repayment of their educational loans over a four-year period. The bill limits the loan repayments to an amount not to exceed $80,000 per applicant. The bill provides that one out of every three dentists selected annually must contract to provide full-time dental services for a minimum of four years in one or more selected communities having fewer than 2,500 residents; one out of every three dentists selected annually must contract to provide full-time dental services for a minimum of four years in one or more selected communities having fewer than 10,000 residents; and one out of every three dentists selected annually must contract to provide full-time dental services for a minimum of

four years in one or more selected communities having 10,000 or more residents. The bill became effective on April 27, 2001.

Senate Bill No. 2161 removes the maximum limit of three examinations that an applicant for licensure as a dental hygienist may be allowed and provides that the Board of Dental Examiners must determine the number of times an applicant may be reexamined. The bill also provides that if an applicant fails on three occasions to pass the examination, the applicant is required to provide evidence of additional education as required by the board before applying for another examination. The bill changes the deadline for submitting a registration fee for a dental hygienist license renewal from on or before January 1 of each year to a time within the month before the expiration of the current license. The bill provides that an applicant for a dental hygienist license by credential review may include reference letters from dental hygienists as well as dentists. The bill authorizes a dental hygienist or dental assistant to take impressions for rapid palatal expanders. The bill changes the continuing education requirements for dental hygienists from 40 hours during each five-year period to 16 hours during each two-year period. The bill also changes the continuing education requirements for dentists from 80 hours during a five-year period to 32 hours during a two-year period. The bill extends the term of a certificate of registration to practice dentistry from one year to two years.

REAL ESTATE SALESPERSONS, BROKERS, AND APPRAISERS

Senate Bill No. 2078 requires the Real Estate Commission to adopt rules requiring as a condition of licensure that effective January 1, 2002, all real estate salespersons and brokers, except those who hold inactive licenses, carry errors and omissions insurance. The bill authorizes the commission to negotiate by bid with an insurance provider for a group policy under which coverage may be available to all licensees with no right on the part of the insurer to cancel coverage provided to any licensee, except as provided by rules adopted by the commission. The bill also requires the commission to determine the terms and conditions of errors and omissions coverage, including the minimum limits of coverage, the permissible deductible, and the permissible exceptions. The bill requires each licensee to be notified of the required terms and conditions of coverage at least 30 days before the annual license renewal date. The bill also provides that if the commission is unable to obtain errors and omissions insurance coverage to insure all licensees who chose to participate in the group program at a reasonable premium not to exceed $125, the errors and omissions insurance requirement will not apply during the year for which coverage cannot be obtained.

Senate Bill No. 2208 provides that a client of a real estate brokerage firm is not liable for a wrongful act, an error, or an omission made by a licensee in connection with the licensee providing brokerage services for the client unless the client knows or should have known of the wrongful act, error, or omission. The bill also provides that a real estate brokerage firm that is providing brokerage services to a client is not liable for a wrongful act, an error, or an omission made by the client, listing agent of another real estate brokerage firm, or subagent to another real estate brokerage firm unless the real estate brokerage firm knew or should have known of the wrongful act, error, or omission. The bill provides that the term "real estate brokerage firm" includes the firm and brokers and agents who work for the firm.

Senate Bill No. 2206 provides that a real estate appraiser licensed or certified in another state may not engage in, advertise, conduct the business of, or act in any capacity as an appraiser in this state without first obtaining a nonresident permit. The bill also provides that an out-of-state

appraiser who engages in, advertises, or conducts the business of, or acts in any capacity as an appraiser without first obtaining a nonresident permit is guilty of a Class A misdemeanor. The bill changes references to the "appraisal subcommittee" to the "appraisal foundation."

MASSAGE THERAPIST

House Bill No. 1155 defines "massage" as the scientific and systematic manipulation of the soft tissues of the human body through any manual or mechanical means, including superficial hot and cold applications, hydrotherapy, reflexology, and the use of salts or lubricants. The bill provides that "massage" does not include diagnosing or treating diseases, manipulating the spine or other joints, or prescribing or administering vitamins. The bill prohibits a person from using the title "massage therapist" or the abbreviations "L.M.T." or "M.T." without a license issued by the Board of Massage. The board increases the membership of the Board of Massage from three members to five members and provides that three members of the board must be massage therapists and the two additional members must be appointed as consumer members for two-year terms. The bill authorizes the Board of Massage to adopt rules, enforce the rules, and periodically inspect or cause to be inspected all massage establishments. The bill authorizes the Board of Massage to deny a license application or place a licensee on probation. The bill increases the compensation of members of the Board of Massage from $50 per day to $62 per day. The bill also authorizes the Board of Massage to initiate a civil action to enforce statutory provisions and rules regulating the practice of massage, including an injunction to restrain a violation, without proof of actual damages sustained by any person.

VETERINARIANS

House Bill No. 1079 provides that the term "certificate" as used with respect to the regulation of veterinarians includes a certificate issued by the educational equivalents program of the American Association of Veterinary State Boards.

PRIVATE INVESTIGATORS AND PRIVATE SECURITY SERVICES

Senate Bill No. 2126 exempts from the licensure requirements of private investigators and private security services any paralegal or legal assistant employed by an attorney or law firm when the attorney or law firm retains complete responsibility for the work product of the paralegal or legal assistant. The bill also exempts from the licensure requirements a person whose sole investigative business is obtaining or furnishing information about acts or individuals from public records.

DETECTION OF DECEPTION EXAMINERS

House Bill No. 1159 increases from $25 to $35 the amount of the fee the Attorney General may charge for a detection of deception license for an applicant licensed in another jurisdiction.

RESPIRATORY THERAPISTS

Senate Bill No. 2162 replaces references to "certified respiratory therapist" and "registered respiratory therapist" to "respiratory therapist." The bill removes the requirement that the Board of Respiratory Care consult with the North Dakota Society for Respiratory Care before adopting any rules. The bill authorizes the Board of Respiratory Care to assess a late fee not in excess of $25 for all license renewal applications that are postmarked after December 31 of the year prior to the year of renewal. The bill also authorizes the board to impose a fee on any person subject to regulation by the board to reimburse the board for all or part of the costs of administrative actions resulting in disciplinary action, which are not reversed on appeal,

including the amount paid by the board for services from the Office of Administrative Hearings, attorney's fees, court costs, witness fees, staff time, and other expenses. The bill provides that temporary licenses issued by the board may not be renewed.

INTERPRETERS FOR THE DEAF AND HARD-OF-HEARING

House Bill No. 1304 provides certification requirements for individuals who interpret for the deaf, deaf-blind, speech-impaired, or hard-of-hearing persons. The bill defines "interpreting" as the translating or transliterating of English concepts to any necessary specialized vocabulary used by a consumer or translating of a consumer's specialized vocabulary to English concepts. The bill prohibits an individual from practicing or representing oneself as an interpreter unless the individual holds a valid nationally recognized certification. The bill allows an individual who is practicing as an interpreter in the state before August 1, 2001, to continue to practice until July 31, 2003, without meeting the certification requirements.

MISCELLANEOUS

Senate Bill No. 2115 provides that under NDCC Title 43 occupational or professional regulating entities, except the State Board of Accountancy, State Electrical Board, North Dakota Real Estate Appraiser Qualifications and Ethics Board, Real Estate Commission, Secretary of State with respect to contractor licensing, State Board of Medical Examiners, and the State Board of Dental Examiners, may allow licensed professional from foreign jurisdictions to practice in the state without a North Dakota license in certain emergency situations, in situations of limited duration, in conjunction with consultation, or to provide continuing services in the case of an existing relationship. The bill authorizes an occupational or professional licensing board to issue a license, without examination, to any foreign practitioner who has practiced the occupation or profession for which the practitioner is licensed at least two years before submitting the application to the board, or for any shorter period of time provided by law or rule, and who meets the other requirements for licensure. The bill authorizes an occupational or professional licensing board to establish, by administrative rule, conditions and procedures for foreign practitioners to practice in the state pursuant to written compacts or agreements between the board and one or more other states or jurisdictions or pursuant to any other method of license recognition that ensures the health, safety, and welfare of the public.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 44
Offices and Officers
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 44. Bills primarily affecting other titles 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: state and local officers; state and local officer reimbursement; open records; notaries; and bids and purchases.

STATE AND LOCAL OFFICERS

Senate Bill No. 2230 provides that the resignation of a member of the Legislative Assembly when the Legislative Assembly is not in session must be made to the chairman of the Legislative Council rather than the Governor.

Senate Bill No. 2197 provides that when a vacancy occurs in the board of county commissioners, the remaining members of the board, with a district judge selected by the remaining commissioners, must appoint a person to fill the vacancy. The bill also provides that when a majority of those officers fail to agree upon a person to fill the vacancy another elective county officer must be called in to act as an additional member of the board if the county treasurer is not an elective officer in that county.

House Bill No. 1352 provides that a political subdivision official who was appointed to fill a vacancy is subject to recall by petition of electors equal in number to 25 percent of the voters who voted in the most recent election that the office of the official sought to be recalled was on the ballot, not including other recall elections. The bill also provides that a petition to recall an elected official of a political subdivision must be approved as to form by the Secretary of State before circulation. The bill allows the Secretary of State no more than seven business days to complete the review of the form of the recall petition. The bill provides that to be effective, a recall petition must be submitted to the appropriate filing officer within 90 days after the date the recall petition is approved for circulation. The bill changes the deadline for calling a special election for a recall election from within 60 days of the finding that the petition is valid to not sooner than 50 days nor later than 60 days following the date the filing officer certifies the petition to be valid. The bill provides that an official whose term expires at a regularly scheduled election occurring within 190 days after the date the petition is submitted to the Secretary of State for approval for circulation is not subject to recall.

House Bill No. 1353 provides that the appointment of any civil officer may be rescinded by the appointing authority if the appointed civil officer fails to file an oath of office at the required filing place. The bill defines a "civil officer" as every elected official; any individual appointed by the Governor; an appointed member of any state authority, board, bureau, commission, and council; and the appointed head of any state agency and agency division, whether the individual serves with or without compensation. The bill provides that except for an individual appointed to fill a vacancy existing in the Legislative Assembly, the term "civil officer" does not include any individual receiving a legislative appointment.

STATE AND LOCAL OFFICER REIMBURSEMENT

Senate Bill No. 2297 increases the lodging reimbursement for in-state lodging for state officers and employees from $42 plus any additional state or local taxes to $45 plus any state or local taxes.

Senate Bill No. 2344 authorizes a political subdivision to reimburse an elective or appointive officer, employee, representative, or agent for actual lodging expenses for in-state lodging.

House Bill No. 1156 authorizes a state agency, board, bureau, or institution to arrange with a lodging provider or travel agency to have an out-of-state lodging expense prepaid by the agency or billed directly to the agency if the agency is able to obtain the lodging at a reduced cost because it is part of a combination of travel-related expenses purchased together.

OPEN RECORDS

Senate Bill No. 2117 includes an airport authority within the definition of a "political subdivision" for the purposes of the open records and open meetings laws. The bill also revises the definition of "public entity" to include any task force or working group created by the individual in charge of a state agency or institution and defines a "task force or working group" as a group of individuals who have been formally appointed and delegated to meet as a group to assist, advise, or act on behalf of the individual in charge of a state agency or institution when a majority of the members of the group are not employees of the agency or institution. The bill revises the definition of "public funds" to provide that the term means cash and other assets with more than a minimal value received from the state or a political subdivision. The bill provides that a public entity may deny a request for records in possession of the public entity from a party or agent of a party to a criminal or civil action if the request seeks records that are privileged under applicable discovery rules. The bill provides that it is a violation of the open records law to charge a fee in excess of the amount authorized under law for copies of a record. The bill provides that a disclosure of a requested record is not a waiver of any copyright held by the public entity in the requested record or of any applicable evidentiary privilege. The bill provides that with respect to the confidentiality of medical treatment records of public employees, the term "public employee" includes an individual who has applied for employment, is employed, or has been employed by a public entity. The bill provides that a computerized index created by a criminal justice agency of names included in criminal files, whether active or inactive, is an exempt record. The bill provides that recordings of meetings of a public entity which are not open to the public must be retained for a minimum of six months after the executive session that is the subject of the recording. The bill authorizes the Attorney General to refer to the appropriate state's attorney any public servant who has been found in more than one opinion to have violated the open records or open meetings laws and provides that a public servant who knowingly violates provisions of the open records and open meetings laws is guilty of a Class A misdemeanor for refusing to perform a duty imposed by law. The bill further provides that the provisions of law that excuse a public entity from being subject to a civil action for a violation of the open records or open meetings law if the violation is remedied within three working days after notice of the alleged violation do not apply if the Attorney General has found that the public entity has violated the law with respect to open meetings or open records on a prior occasion.

NOTARIES

Senate Bill No. 2179 provides that a North Dakota notary may perform a notarial act in another state if that state recognizes the notary's authority within that state. The bill became effective on March 22, 2001.

Senate Bill No. 2255 provides that if a notary fails to notify the Secretary of State within 60 days of a change of address, the Secretary of State may impose a late fee in the amount of $10. The bill provides that the late fee must be paid before the renewal of the notary's commission. The bill provides that a notary who has legally changed the notary's name must submit to the Secretary of State a rider to the notary surety bond stating both the old and new names, the effective date of the name change, and the $10 name change fee within 60 days of the name change rather than 30 days. The bill also authorizes the notary to continue to use the notary's old seal after a name change until a new seal is obtained but requires a notary to include on the certificate a statement that the notary was formerly known and commissioned as the notary's prior name.

House Bill No. 1252 provides that unless otherwise authorized by law, a notary public may not notarize a signature on a document if the signature on the document or the notarial certificate is not an original signature.

BIDS AND PURCHASES

House Bill No. 1123 provides that with respect to bids for professional services, the preference given to North Dakota bidders by the state or a political subdivision must be equal to the preference given or required by the state of a nonresident bidder. The bill provides that when it is advantageous to the state or a political subdivision that a purchase be of a particular brand of product or products of a particular manufacturer to the exclusion of competitive brands or manufacturers, the purchasing board or entity must document those circumstances and provide written justification for the proprietary specification or purchase. The bill requires the purchasing board or entity to procure the proprietary product through a competitive process unless the needed product is available exclusively from one source of supply or other circumstances exist under which competition can be waived.

House Bill No. 1148 provides that for purchases made with the use of a purchasing card under a system established by the director of the Office of Management and Budget, an employee of the Office of Management and Budget designated by the director, on behalf of all agencies, may review and approve vouchers and make payment pursuant to the purchases.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 45
Partnerships
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 45. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1139 increases from $25 to $40 the filing fee for certified statements of amendments of foreign limited partnerships and removes the requirement that an application for registration as a foreign limited partnership be sworn by the general partner.

House Bill No. 1140 provides that certain managing partners of foreign limited liability partnerships must be separately registered with the Secretary of State.

House Bill No. 1422 provides a definition of "fictitious name" as the term applies to the law relating to a partnership name.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 46
Printing Laws
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 46. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1122 moves statutory language relating to contract bidding for printing to the section of law governing proposals for printing. The bill removes references to Class 3 printing and Class 6 printing to make printing procurement procedures the same as for state agency procurement of other goods or services. The bill removes the requirement that the Office of Management and Budget award printing contracts within 15 days of receiving proposals.

House Bill No. 1124 extends the 15-day limitation for certification by the Office of Management and Budget for rates and size requirements for legal notice newspaper publication after samples are submitted, to allow the certification to be made as soon after the 15-day limitation as practicable. The bill also changes the time for the Office of Management and Budget to review and adjust legal notice publication rates to reflect changes within the newspaper industry and the general economy, from an annual to a biennial review.

House Bill No. 1318 repeals a provision limiting newspaper charges for political announcements of candidates to no more than the legal rates for publication of legal notices and requiring paid political matter and political announcements to carry a label stating that it is a political advertisement.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 47
Property
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 47. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1066 provides that if the unclaimed property administrator holds stock, the owner is entitled to receive any dividends or increments on that stock as long as it is held by the administrator. The bill removes the limitation that the administrator provide for a public sale in a city in this state and allows the administrator to have a public sale in whatever manner affords, in the judgment of the administrator, the most favorable market for the property. The bill changes the amount of time notice must be published before a public sale from three to two weeks. The bill decreases the allowable commission that may be charged in agreements to find unclaimed property from not in excess of 25 to not in excess of 10 percent of the amount recovered.

Senate Bill No. 2179 allows a North Dakota notary to perform official acts in another state if that state recognizes the notary's authority within that state.

House Bill No. 1133 makes invalid an acknowledgment taken or received by an individual authorized by law to take or receive the proof or acknowledgment of execution when that individual is self-interested.

House Bill No. 1178 requires the Secretary of State to cancel from the registration of trade names any trade name of a limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership that has ceased to exist for six months.

House Bill No. 1422 defines a trade name as a name assumed to identify a business which does not include the name of the organization or the first or last name of each individual using the business name; however, an individual or organization may register the preceding exceptions as a trade name. The bill defines a trade name as a name not registered as a trade name if the name is used by a business licensed or permitted to conduct business in this state.

House Bill No. 1252 requires a document and any acknowledgment to be executed with an original signature before the document is allowed to be recorded as an instrument affecting the title to or possession of real property unless otherwise provided by state law.

House Bill No. 1302 excludes from the definition of usury a bona fide pawnbroking transaction in an amount not exceeding $1,000. A bona fide pawnbroking transaction means a transaction with a licensed pawnbroker which includes both possession and a pledge of tangible personal property.

House Bill No. 1336 repeals the requirement that land transferred from the Board of University and School Lands to Stark County must be used by Stark County for the development of a county fairgrounds.

Senate Bill No. 2042 repeals the chapter of the North Dakota Century Code relating to patents resulting from research sponsored by a state institution of higher learning.

Senate Bill No. 2075 applies the rules of the Uniform Disclaimer of Property Interests Act to the disclaimer of being a custodian to receive property for a minor beneficiary.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 48
Public Buildings
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 48. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1166 allows the Department of Transportation to procure the plans, drawings, and specifications for a building used for the storage and housing of road materials and road machinery, equipment, and tools from a registered professional engineer employed by the department. The bill became effective on March 27, 2001.

Senate Bill No. 2375 prohibits a governing body from requiring a person required to provide a surety bond with respect to a public improvement project to furnish financial data to or obtain a surety bond from a specified insurance or surety company or insurance producer.

House Bill No. 1386 provides that for a public improvement project, if the total of all bonds provided by all bid packages and the construction manager is less than the total project bid, the construction manager must bond the difference between the total of the bonds and the total project bid.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 49
Public Utilities
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 49. Bills primarily affecting other titles 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; railroads; one-call excavation notice system; and miscellaneous.

TELECOMMUNICATIONS

House Bill No. 1182 exempts from the provisions of North Dakota Century Code (NDCC) Chapter 49-21 governing telecommunications, services or facilities provided by a system or institution of higher education to institution employees or students at institution facilities or housing owned or leased by the institution; affiliated organizations, including alumni operations and research foundations, formed for the purpose of supporting the institution or leased by the institution and offering products and services intended primarily for the benefit of institution employees, students, or guests; other persons or entities located on property owned or leased by the institution and offering products and services intended primarily for the benefit of institution employees, students, or guests; casual users using the institution's facilities for conferences, seminars and other similar special events, and broadcasters of athletic events; occupants of technology parks, or business incubators receiving secretarial or business startup supportive facilities owned or leased by the institution during a business startup phase for a term not to exceed four years or until August 1, 2005, whichever is later; and educational, governmental and nonprofit users of system or institution interactive video conferencing site facilities and associated network services.

House Bill No. 1090 provides that telecommunications companies that elect to be subject to rate and rate of return regulation are not obligated to pay any fee for filing a price schedule or tariff.

House Bill No. 1093 requires telecommunications companies to comply with the provisions of Title 47, Code of Federal Regulations, Part 64, subpart k, in effect on January 1, 2001, regarding changes in a subscriber selection of a provider of telecommunication service.

RAILROADS

Senate Bill No. 2359 requires railroad corporations to develop a written critical incident stress debriefing policy and to provide a copy of the policy to each of its employees.

ONE-CALL EXCAVATION NOTICE SYSTEM

Senate Bill No. 2227 provides that if an excavator fails to comply with any provision of NDCC Chapter 49-23 governing the one-call excavation notice system the excavator is liable for all damages caused by the failure to comply with the chapter. The bill deletes the provision that it is prima facie evidence of the excavator's negligence in a claim for relief if damage to the underground facilities of an operator resulted from excavation and the excavator failed to give an excavation notice or provide support.

MISCELLANEOUS

Senate Bill No. 2299 requires the Public Service Commission to allow a public utility to recover all costs resulting from a coal severance tax pursuant to NDCC Chapter 57-61 and all costs resulting from a coal conversion tax pursuant to Chapter 50-60 in determining the value of property for ratemaking purposes.

House Bill No. 1008 increases the salaries of the public service commissioners.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 50
Public Welfare
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 50. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to public welfare may be classified in these subject areas: Department of Human Services programs; welfare reform; nursing homes and related facilities; foster care; compulsive gambling services; and miscellaneous.

DEPARTMENT OF HUMAN SERVICES PROGRAMS

House Bill No. 1012 changes the reimbursement rate to counties for an affected county's expenses for locally administered economic assistance programs from 100 percent to a percentage based on the level of legislative appropriations. The bill provides that the assignment of rights to support is not effective as to any child subject to a benefit cap under the temporary assistance for needy families (TANF) program. The bill also requires the Department of Human Services to establish eligibility criteria for crippled children's services at 185 percent of the poverty line, except for criteria relating to phenylketonuria or maple syrup urine disease treatment services for which income is not to be considered when determining eligibility.

House Bill No. 1015 changes the reimbursement rate to counties for an affected county's expenses for locally administered economic assistance programs from 100 percent to 90 percent.

House Bill No. 1115 authorizes the Department of Human Services to implement a personal care option benefit program. The bill provides that the personal care option benefits may only be made available to qualifying individuals who reside in basic care facilities. The bill became effective on April 13, 2001.

House Bill No. 1117 authorizes the Department of Human Services to establish a targeted case management service for disabled and elderly individuals who are eligible for medical assistance and who are at risk of requiring long-term care services. The bill also sets forth the powers and duties of the department in establishing the service. The bill became effective on March 15, 2001.

House Bill No. 1282 provides that medical assistance coverage must include reimbursement of ambulance services for responding to calls to assist covered individuals which do not result in transport. The bill provides that the reimbursement must be at a rate negotiated by the department and the ambulance service.

House Bill No. 1385 provides that the Department of Human Services may not require a parent to transfer custody of the child in order to receive treatment if the sole reason for the placement is to obtain services and both parents or the legal guardian have agreed to the child's voluntary placement or there is a judicial determination by the juvenile court that placement is in the best interests of the child.

House Bill No. 1441 requires the Department of Human Services to provide medical assistance benefits to children and families coverage groups and pregnant women without consideration of assets. The bill also permits the department to seek grants and to accept gifts and donations for the purpose of providing funds for the children's health insurance program.

House Bill No. 1472 provides for medical assistance coverage for women screened and found to have breast or cervical cancer. The bill requires that the Department of Human Services establish income eligibility guidelines that do not exceed 200 percent of the poverty line.

Senate Bill No. 2095 provides that eligibility for the children's health insurance program for self-employed applicants is based on the lower of either the previous one year or the average of the previous three years of adjusted gross income or loss, less any earned or unearned income, plus any current earned or unearned income.

Senate Bill No. 2160 exempts the child support enforcement program from fees charged by the registers of deeds and the Secretary of State for searching records, fees for filing documents in the central indexing system, and fees for copying for cases involving the establishment of paternity or for the establishment, modification, or enforcement of child support.

Senate Bill No. 2168 clarifies that premium or policy fee payments made by the Department of Human Services on behalf of eligible recipients of the children's health insurance program are not subject to the insurance premium tax.

Senate Bill No. 2239 requires the Department of Human Services to provide medical food and low-protein modified food products to individuals with phenylketonuria or maple syrup urine disease.

Senate Bill No. 2403 requires the Department of Human Services to make oral maxillofacial surgical services and orthodontic services in conjunction with, or in lieu of, those medical services available through the Medicaid program to anyone who is a Medicaid recipient if the services are reasonably likely to correct or mitigate a congenital or acquired deformity associated with a significant function impairment in drinking, eating, swallowing, or speaking. The bill became effective on April 19, 2001.

WELFARE REFORM

House Bill No. 1108 replaces references to the training, education, employment, and management (TEEM) demonstration program with references to the TANF program. The bill also amends several statutes relating to the assignment of support rights to comply with assignment requirements of federal law. Existing law requires assignment of child support but not spousal support. The bill exempts victims of domestic violence from the 60-month lifetime limit on TANF benefits. The bill removes language that requires the state to impose a shorter lifetime limit than 60 months if a TANF applicant came to North Dakota from a state that imposed a shorter lifetime limit. The bill removes the language that requires the Department of Human Services to seek the approval of the Secretary of Health and Human Services to develop and use a single application process. The bill requires the department to address domestic violence issues in the TANF program. The bill repeals North Dakota Century Code (NDCC) Section 50-06-01.2, which originally authorized the TEEM demonstration project, and NDCC

Section 50-09-26, which described the transition from aid to families with dependent children (AFDC) to TANF.

NURSING HOMES AND RELATED FACILITIES

House Bill No. 1109 creates a new definition for "assisted living facility," "individualized support services," "instrumental activities of daily living," "living unit," "related by blood or marriage to the owner or manager," and "tenant." The bill establishes a method to receive complaints regarding the operation of assisted living facilities. The bill establishes a process for registering assisted living facilities and provides a penalty for those facilities that fail to comply with the registration requirement. The bill changes the monthly personal care allowance from $45 to $60.

House Bill No. 1196 provides that a government nursing facility may not receive more than $50,000 in transaction fees during any calendar year. The bill requires each government nursing facility to use its transaction fee revenues for long-term care related services. The bill removes the definition of "assisted living facilities" and any references to the term. The bill provides that the moneys deposited in the North Dakota health care trust fund are available for transfer to the long-term care facility loan fund for making loans; for the payment of costs of other programs authorized by the Legislative Assembly; and for the repayment of federal funds. The bill also requires the Department of Human Services to share in the cost of long-term care facility loans.

House Bill No. 1415 extends the moratorium on the expansion of residential child care facility or group home bed capacity to June 30, 2003. The bill also provides that the Department of Human Services may license additional beds if a needs assessment conducted by the department indicates a need for additional beds. The bill became effective on March 27, 2001.

Senate Bill No. 2093 changes a cross-reference in a section that defines an assisted living facility. The bill becomes effective on July 1, 2001.

Senate Bill No. 2097 creates an exception for state-owned nursing home facilities for audit reporting requirements. The bill also addresses the language relating to private pay notice requirements when the department is late in setting rates by providing an exception when a facility fails to file a cost report by October 1.

FOSTER CARE

Senate Bill No. 2092 authorizes the Department of Human Services to petition the district court for an injunction to stop or prevent a violation of the laws or rules that apply to foster care homes.

Senate Bill No. 2096 provides that before licensing a facility that provides foster care for adults, the Department of Human Services must obtain a criminal history record. The bill also requires the department to obtain fingerprints and other identifying information on any individual who is employed by, or who provides care in, an adult family foster care facility.

COMPULSIVE GAMBLING SERVICES

House Bill No. 1089 requires the Department of Human Services to establish a compulsive gambling prevention, awareness, crisis intervention, rehabilitation, and treatment services program. The language contained in the bill regarding this program is similar to language

contained in NDCC Section 53-06.1-18, which is repealed. The bill became effective on March 20, 2001.

Senate Bill No. 2308 provides that a gambling addiction counselor must be a mental health professional and must meet the minimum standards for certification as a gambling counselor as established by rule by that mental health professional's licensing board.

MISCELLANEOUS

House Bill No. 1110 provides that rights existing and vested or instruments executed before July 1, 1979, pursuant to certain sections of NDCC Chapter 50-24, which was repealed in 1979, continue to be effective until their expiration. The bill also provides that interest not already collected may not accrue on the principal amount of those claims.

Senate Bill No. 2129 establishes a procedure by which a parent or an agent of the parent may leave an abandoned infant at a hospital without being subject to prosecution for child abandonment, neglect, or abuse.

Senate Bill No. 2384 provides that when a decision is made that services are required for the protection and treatment of an abused or neglected child, the Department of Human Services must make a good-faith effort to provide written notice of the decision to the parents or legal guardian of the child.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 51
Sales and Exchanges
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 51. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

House Bill No. 1033 removes the requirement that the Attorney General receive prior authorization from the district court before the Attorney General may conduct an investigation into possible violations of the state's antitrust laws.

House Bill No. 1067 provides a $25 late fee for auctioneer and clerk license renewals submitted untimely. The bill also repeals the requirement that the Public Service Commission compile an annual list of licensed auctioneers and clerks.

House Bill No. 1203 provides exclusive remedies applicable to breaches of new farm machinery warranties and repeals a law that provided a breach of warranty remedy for new and used farm machinery.

House Bill No. 1324 provides that the laws regulating retail and wholesale contracts, termination of contracts, and price determination which apply to manufacturers, wholesalers, and distributors of farm machinery, farm implements, parts for farm machinery and farm implements, automobiles, trucks and parts for automobiles and trucks also apply to manufacturers, wholesalers, and distributors of semitrailers. The bill also defines good cause for termination of franchises as the failure to substantially comply with essential and reasonable requirements imposed by contract if the requirements are not different from those imposed on other similarly situated dealers.

House Bill No. 1427 provides a person who sells goods or services paid for by the consumer from proceeds of an insurance policy that provides coverage for physical damage to automobiles may not advertise or promise to provide a good or service as an incentive; pay or waive all or part of any applicable insurance deductible; pay a rebate in an amount equal to part of any applicable insurance deductible; or knowingly charge an amount for the good or service that exceeds the usual and customary charge by that person for the good or service by an amount equal to or greater than all or part of the applicable insurance deductible paid by that person on behalf of an insured or remitted to an insured by that person as a rebate.

Senate Bill No. 2091 provides a 15-day period in which a person may request a hearing under the franchise investment law and removes the requirement that a franchisee that is exempt from the registration of offer requirements receive prior written approval from the Securities Commissioner before the sale or purchase of a franchise.

Senate Bill No. 2290 expands the definition of "recreation vehicle" with respect to the regulation of recreation vehicle franchises to include all-terrain vehicles and travel trailers that do not exceed 40 feet in length. Previously, the definition included travel trailers over 35 feet in length. The bill also defines the circumstances under which a distributor or dealer may recover for

termination of an agreement and the amount recoverable with respect to contracts currently in effect which have no stated expiration date and to all other contracts entered after July 31, 2001. However, the bill provides that contracts in effect on July 31, 2001, which will terminate subsequent to that date are governed by the law existing before August 1, 2001.

Senate Bill No. 2370 provides the minimum requirements for a nonbanking institution to engage in the business of currency exchange. The bill defines "currency exchange" as cashing a check, draft, money order, or traveler's check or issuing a money order or traveler's check as an agent for another for a fee.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 52
Social Security
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 52. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1083 provides that voluntarily leaving employment without good cause does not automatically disqualify an employee from receiving unemployment compensation benefits if the employee leaves that employment to accept a bona fide job offer with a base period employer who laid off the employee and with whom the individual has a demonstrated job attachment.

House Bill No. 1084 removes the $40 million balance requirement for the job insurance trust fund and requires Job Service North Dakota to report annually to the Legislative Council on the actual and projected trust fund balance.

House Bill No. 1085 makes substantial changes to the unemployment compensation program requirements for impact projects. The changes remove the requirements for an upfront cash payment by the employer, posting of a bond by each employer on the project, maintaining and accounting for individual interest-bearing trust accounts for each employer, credit refunds of bond payment for wages of North Dakota residents, employers maintaining records to determine an employee's state of residence, and additional reporting of employee's state of residence.

House Bill No. 1086 amends the method to adjust the unemployment compensation tax rate for an employer with a significant increase in the employer's taxable payroll, i.e., for an employer with a quarterly taxable payroll in excess of $50,000 and at least three times the employer's established average annual payroll, for an employer with an average annual payroll equal to zero and with positive cumulative lifetime reserve balance, and for an employer with a negative cumulative lifetime reserve balance.

House Bill No. 1087 changes from the two-digit standard employer's industrial classification system to the three-digit North American employer's industrial classification system; decreases the culpability requirement for corporate officer personal liability by removing the willful requirement; and provides in succession to a predecessor's experience record, an employing unit's experience record may not be transferred in an amount that results in the successor and predecessor portions totaling more than 100 percent of the predecessor's history.

House Bill No. 1135 recognizes in the law relating to the old-age and survivor insurance program that a county may levy a tax not exceeding four mills for comprehensive health care insurance employee benefit programs.

House Bill No. 1251 provides that for purposes of unemployment compensation, "employment" does not include services performed by an owner of a general partnership, limited partnership, limited liability partnership, limited liability limited partnership, or limited liability company unless the organization is treated as a corporation for purposes of federal income taxation and an "employee" includes an officer of a corporation and a manager of a limited liability company that

is treated as a corporation for purposes of federal income taxation or a manager of a limited liability company who is not a member. The bill also provides that the unemployment compensation option to allow certain managers of limited liability companies to waive coverage does not apply to a limited liability company that is wholly owned by or operated as an Indian tribe, state or local government, or nonprofit organization with respect to services performed which are required by federal law to be covered under the state's unemployment compensation law.

House Bill No. 1319 allows a corporation to exclude an officer of a corporation from the definition of "employment" for Social Security purposes by filing within 60 days of formation of the corporation a written application to exclude the officer's service from employment. The bill allows a limited liability company to exclude from the definition of "employment" for Social Security purposes a manager if within 60 days of formation the limited liability company files a written application to exclude the manager's service from employment. The bill prohibits excluding a manager from the definition of "employment" for Social Security purposes if the limited liability company is wholly owned by or operated as an Indian tribe, state or local government, or nonprofit organization with respect to services performed for those entities which are required by federal law to be covered under the state's unemployment compensation law.

House Bill No. 1450 requires employees of Indian tribes, with certain exceptions, to be covered under the state unemployment compensation program.

House Bill No. 1471 excludes certain employers from utilizing certain unemployment compensation rate limitations for calendar years 2000, 2001, and 2002. The bill also provides a negative employer that was a negative employer the previous year may not make excess contributions to become a positive employer.

Senate Bill No. 2017 amends House Bill No. 1471 to remove the prohibition on a negative employer that was a negative employer the previous year from making excess contributions to become a positive employer. The bill allows principal in the federal advance interest payment fund to be used for the acquisition of an office facility in Grand Forks, whereas previously only interest costs were allowed to be paid from the fund. The bill allows moneys in the fund to be used for the purchase of a building for an office facility in Bismarck. The bill provides for a continuing appropriation from the fund for these office facilities. The bill allows Job Service to provide job task analysis services to an employer for a reasonable charge. Fees collected for providing this analysis must be deposited in a separate account and used for job task analysis services. The moneys in this fund are appropriated on a continuing basis.

Senate Bill No. 2020 requires the State Board for Vocational and Technical Education, effective July 1, 2003, to distribute workforce training funds during the first fiscal year of the biennium up to one-half of the total amount to institutions of higher education assigned primary responsibility for workforce training. The bill requires each institution of higher education to provide certification to the Workforce Development Division of the Department of Commerce that at least 50 percent of the regional funds included in the approved business plan have been received or are pledged to be received before the institution may receive state funding for the second fiscal year of the biennium.

Senate Bill No. 2072 increases the amount of the primary insurance benefit under the old-age and survivor insurance program.

Senate Bill No. 2337 creates a shared work unemployment compensation program, which is effective through June 30, 2003.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 53
Sports and Amusements
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 53. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to sports and amusements may be classified in these subject areas: gaming taxes; wager limits; parimutuel horse racing; and miscellaneous.

GAMING TAXES

House Bill No. 1003 requires that three percent of all gaming and excise taxes collected be deposited in a gaming and excise tax allocation fund. The bill provides that the moneys in the fund must be distributed quarterly to cities and counties in proportion to the taxes collected from licensed organizations within each city or county. Under this bill, the North Dakota Racing Commission is subject to the supervision and direction of the Attorney General, except with regard to the commission's authority to spend certain funds. The bill also increases the Racing Commission members' compensation from $40 to $75 per day.

House Bill No. 1416 increases the allowable expense limit from 50 percent to 51 percent of the first $200,000 of adjusted gross proceeds per quarter and 45 percent of the adjusted gross proceeds in excess of $200,000 per quarter. The bill also provides that if an organization's total actual expenses exceed the allowable expenses, the organization may also deduct up to an additional two percent of the first $200,000 of adjusted gross proceeds per quarter. This bill becomes effective on July 1, 2001.

Senate Bill No. 2234 provides that excise taxes may not be imposed on organizations whose gross proceeds do not exceed $4,000 per calendar quarter.

WAGER LIMITS

House Bill No. 1306 increases the maximum wager for the game of twenty-one from $5 to $25. The bill also provides that for each twenty-one table with a wager greater than $5, an additional amount up to $100 may be added to the monthly rent for a site where bingo is not the primary game.

PARIMUTUEL HOUSE RACING

Senate Bill No. 2381 authorizes parimutuel wagering to be conducted through account wagering. The bill provides that an account wager made on an account may only be made through the licensed simulcast services provider authorized to operate the simulcast parimutuel wagering system under the certificate system.

MISCELLANEOUS

House Bill No. 1089 increases the compensation for a member of the Gaming Commission from $40 to $62.50 per day. The bill authorizes employees of bars to sell raffle tickets for organizations that are authorized to conduct games at those sites. The bill clarifies the effect that a misdemeanor or felony conviction has on whether a person may be a licensed distributor

or an employee of a licensed organization. The bill also limits the prize payback on poker tournaments to 90 percent of gross proceeds; enables veterans' organizations to use net proceeds in setting up a trust account to maintain public cemeteries; enables organizations to use net proceeds for fundraising activities provided that the net income of that activity is disbursed for eligible uses; requires a manufacturer of bingo card marking devices to be licensed before transacting business in the state; and makes it a Class C felony for a person to use a fraudulent scheme or technique to cheat or skim involving the game of paddlewheel. The bill became effective on March 20, 2001.

House Bill No. 1300 permits public-spirited organizations to obtain a charity local permit to conduct raffles, bingo, sports pools, paddlewheels, twenty-one, and poker. The bill provides that an organization issued a charity local permit is restricted to one event per year.

Senate Bill No. 2407 provides that unless certain exceptions apply, a licensed manufacturer of deals of pull tabs or paper bingo cards may not refuse to sell to a licensed distributor.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 54
State Government
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 54. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

LEGISLATIVE ASSEMBLY

Senate Bill No. 2048 provides that a legislator is entitled to receive the same compensation for attending a meeting of a legislative committee between the organizational session and the regular session, as authorized by legislative rule, as a legislator is entitled to receive during a legislative session. The bill became effective on January 30, 2001, and is retroactive in application to December 7, 2000.

Senate Bill No. 2001 provides that if the chairman of the Legislative Council is not a majority or minority leader, the chairman is 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 the execution of public duties. The bill became effective on April 23, 2001.

Senate Bill No. 2175 increases the daily legislative session compensation for members of the Legislative Assembly from $111 to $125 for each calendar day. This bill is retroactive in application to January 1, 2001.

House Bill No. 1474 provides that if an employer in the state grants a leave of absence from employment to a full-time employee who is a member of the Legislative Assembly for attendance at a session of the Legislative Assembly or attendance at a meeting of the Legislative Council or any of its committees, the employer may not terminate the employment of the employee solely due to the fact that the employee is absent from employment as a result of service in the Legislative Assembly.

House Bill No. 1205 provides that a member of the Legislative Assembly who is a witness or a party to a civil action or has been the attorney of record for a party in a civil action for more than 15 days is entitled to a continuance or an extension of time for any matter related to the civil action during the time the member of the Legislative Assembly is actually engaged in the performance of the member's duties at a session of the Legislative Assembly and attendance of the member is necessary in the action. The bill provides that upon application for the continuance or extension, the proceeding must be continued and may not proceed within 10 days after the adjournment of the Legislative Assembly over the objection of the party, witness, or attorney of record.

House Bill No. 1407 provides that a legislative measure mandating health insurance coverage of services or payment for specified providers of services may not be acted on by any committee of the Legislative Assembly unless the measure is accompanied by a cost-benefit analysis provided by the Legislative Council. The bill provides that any amendment made during a legislative session to a measure which mandates health insurance coverage of services may not be acted on by a committee of the Legislative Assembly unless the amendment is accompanied

by a cost-benefit analysis provided by the Legislative Council. The bill requires the Legislative Council to contract with a private entity, after receiving one or more recommendations from the Insurance Commissioner, to provide the cost-benefit analysis required. The Insurance Commissioner is required to pay the cost of the contracted services to the entity providing the services.

STATE OFFICERS AND EMPLOYEES

House Bill No. 1035 establishes a state employee telecommuting incentive program that provides incentives for state agencies to locate state employees away from a central office setting. The bill is effective through June 30, 2005.

House Bill No. 1119 establishes a state employee performance bonus program through which state agencies may provide monetary performance bonuses to classified state employees. The bill provides that bonuses may not be included in an employee's base salary for purposes of calculating any wage or salary increase. The bill is effective through June 30, 2005.

House Bill No. 1120 authorizes a state agency to develop a pilot program to provide bonuses to recruit or retain classified state employees in hard-to-fill occupations. The bill requires a state agency to fund the bonus pilot program from within its agency salaries and wages budget. The bill became effective on March 15, 2001, and is effective through June 30, 2003.

House Bill No. 1147 authorizes a state agency to allow the use of an official's, deputy's, or employee's personal motor vehicle in the performance of an official duty under circumstances authorized by the official, deputy, or the employee's supervisor. The bill provides that if personal motor vehicle use is authorized, the agency may also allow mileage reimbursement at a rate less than what is otherwise provided by law for mileage reimbursement.

House Bill No. 1197 increases the mileage reimbursement for state officers and employees from 25 cents per mile to 31 cents per mile for travel by motor vehicle. The bill also increases the reimbursement for travel by private airplane from 35 cents per mile to 70 cents per mile. The bill provides that for travel outside the state by motor vehicle, the mileage reimbursement is 31 cents per mile for the first 300 miles beyond the borders of the state. Previously the threshold was 150 miles. The bill became effective on April 18, 2001.

GOVERNOR AND LIEUTENANT GOVERNOR

House Bill No. 1001 increases the salary of the Governor from $83,013 to $85,506 through June 30, 2002, and to $87,216 thereafter. The bill increases the salary of the Lieutenant Governor from $64,447 to $66,380 through June 30, 2002, and to $67,708 thereafter.

House Bill No. 1050 requires each bill not vetoed by the Governor to be filed with the Secretary of State within five legislative days after the bill has been delivered to the Governor and, if the Legislative Assembly is not in session, requires each bill delivered to the Governor to be filed with the Secretary of State within 15 days, Saturdays and Sundays excepted, after delivery of the bill to the Governor. The bill became effective on February 12, 2001.

SECRETARY OF STATE

House Bill No. 1002 increases from $25 to $50 the threshold that must be expended on any single occasion by a lobbyist on any individual in carrying out the lobbyist's work with respect to

the requirement of filing an expenditure statement with the Secretary of State. The bill also increases the salary of the Secretary of State from $61,142 to $64,742 through December 31, 2001; to $66,684 through June 30, 2002; and to $68,018 thereafter.

House Bill No. 1353 removes the $5 fee for the filing of any documents signed by the Governor, except a commission, and attested by the Secretary of State. The bill also provides that an individual required to file an oath of office with the Secretary of State may not be charged for filing the oath of office. The bill provides that a state or county officer may not be charged for filing any document with the Secretary of State when acting in the officer's official capacity.

House Bill No. 1105 requires the Secretary of State to maintain a computerized central indexing system that must connect each register of deeds' office to the Secretary of State's office through the Information Technology Department. The bill requires the Secretary of State to produce each month one list for crops and one list for livestock that each contain the information from filing statements. The Secretary of State is required to distribute monthly by mail the lists required to be produced at least five business days in advance of the effective date of each of the lists. The Secretary of State is required to verbally provide information contained on a list generated through the computerized central indexing system if the collateral is crops or livestock if the Secretary of State receives a verbal request from any person. The Secretary of State is required to establish fees for placing data in the computerized central indexing system; for obtaining computer access to the computerized central indexing system, to the computerized Uniform Commercial Code central filing data base, or to the computerized statutory liens data base; for receiving printouts; for direct access to all or parts of the central indexing system; for lists provided by the Secretary of State or sold or licensed; for any programming charges specifically incurred to provide information requested by persons which is related to the central indexing system; and for other services provided through the computerized system.

STATE AUDITOR

House Bill No. 1004 increases the salary of the State Auditor from $62,855 to $64,742 through December 31, 2001; to $66,684 through June 30, 2002; and to $68,018 thereafter.

House Bill No. 1259 provides that in lieu of providing for an audit every two years, an occupational or professional board that has less than $10,000 of annual receipts may submit an annual report to the State Auditor. The bill authorizes the State Auditor to make any additional examination or audit determined necessary in addition to the annual report. The bill provides that when a report is not filed, the State Auditor may charge the occupational or professional board an amount equal to the fair value of the additional examination or audit and any other services rendered. The bill authorizes the State Auditor to charge an occupational or professional board a fee not to exceed $50 an hour for the costs of reviewing the annual report.

Senate Bill No. 2259 provides that in lieu of conducting an audit every two years, the State Auditor may require an annual report from a park district with less than $200,000 of annual receipts.

House Bill No. 1104 repeals a provision requiring the State Auditor to conduct a spot check of the perpetual physical property inventory of the Department of Transportation.

STATE TREASURER

House Bill No. 1005 increases the salary of the State Treasurer from $61,142 to $62,974 through June 30, 2002, and to $64,233 thereafter. The bill also requires the State Treasurer to utilize the services provided by the Information Technology Department with respect to electronic records and electronic signatures.

ATTORNEY GENERAL

House Bill No. 1003 increases the salary of the Attorney General from $69,200 to $71,072 through December 31, 2001; to $73,204 through June 30, 2002; and to $74,668 thereafter. The bill also provides that at the end of each biennium, any moneys in the Attorney General refund fund in excess of the amounts required to pay certain costs must be deposited in the general fund. Previously, the law provided that at the end of each fiscal year the excess funds must be deposited in the general fund.

Senate Bill No. 2431 provides that the biennial report submitted to the Governor and the Secretary of State by the Attorney General must provide a summary of the types of actions prosecuted or defended by the Attorney General on behalf of the state and the aggregate cost of prosecuting or defending the actions. Previously, the law provided that the report must provide the number, character, condition, and result of each action and the cost of prosecuting and defending each action.

INDUSTRIAL COMMISSION

Senate Bill No. 2165 provides that notwithstanding any other provision of law, the state may lease any project or other property to the Industrial Commission, in lieu of a transfer of title, and the Industrial Commission may sublease or leaseback any such project or property to the state in connection with any financing by the commission. The bill also provides that the computation for the authorized general fund lease payments for a biennium must be based on the projected sales, use, and motor vehicle excise tax collections presented to the Legislative Assembly at the close of the most recently adjourned regular legislative session. The bill provides that lease payment amounts for any particular project must be calculated as of the date the related bonds are issued.

Senate Bill No. 2100 provides that if a contractor to whom a contract for construction or the provision of equipment to the North Dakota Mill and Elevator Association is let properly performs the work designated in the contract, the mill manager, at least once in each calendar month during the continuance of the contract work, must meet, receive, and consider estimates furnished by the agent, engineer, or architect acting for the association and allow the estimates in an amount of the estimated value of the labor and material furnished upon the contract, and of the material then upon the ground for use in the contract, subject to retentions of 10 percent of each estimate presented until the time the project is 50 percent completed, with no further retainage on estimates during the continuance of the contract. The bill authorizes the Industrial Commission to allow the mill manager to prepay for equipment before delivery to the construction site if the commission determines that prepayment is in the best interest of the association, the association's interests will be adequately protected, and the equipment is of a type that is not fungible and could not be sold except at a discount to another because it is constructed to specifications required by the association. The bill allows the association, upon completion of 95 percent of the contract according to the estimates, to pay the contractor

95 percent of the amount retained from previous estimates. The bill became effective on March 15, 2001.

Senate Bill No. 2101 authorizes officers other than the North Dakota Mill and Elevator Association manager, employees, or legal counsel of the association, if authorized by the Industrial Commission, to execute written documents in the name of the state. The bill became effective on March 15, 2001.

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Senate Bill No. 2016 prohibits the director of the Department of Corrections and Rehabilitation from authorizing any new program to serve adult or juvenile offenders, including a program that provides alternatives to conventional incarceration and a program operated on a contract basis, if the program is anticipated to cost in excess of $100,000 during the biennium in which the program is implemented or any subsequent biennium without first reporting to the Legislative Assembly or, if the Legislative Assembly is not in session, the Budget Section of the Legislative Council. The bill also provides that the Division of Adult Services of the Department of Corrections and Rehabilitation is not liable for costs or attorneys' fees when a claimant has not provided the division prior written notice of the commencement of an action. The bill provides that if a claimant does not bring an action for damages within six months from the date the division awarded benefits, the division may bring an action or claim for relief in the division's name and may retain as the division's subrogation interest the full amount the division has paid in compensation and benefits to a claimant for criminally injurious conduct. The bill allows the division to bring an action within two years from the date the division first awarded benefits, notwithstanding any other statute of limitation.

Senate Bill No. 2135 provides that in addition to any other remedy allowed by law, the Department of Corrections and Rehabilitation may enforce and collect any unpaid supervision costs and fees imposed as a condition of parole, probation, or under a program implemented by the department in a civil judgment entered by a district court and may employ licensed collection agencies to enforce and collect any unpaid supervision costs and fees.

LIBRARY COORDINATING COUNCIL

Senate Bill No. 2055 increases the membership of the North Dakota Library Coordinating Council from 10 members to 11 members. The bill provides that the additional member will be appointed by the Governor and must be a citizen at large.

LEGISLATIVE COUNCIL

Senate Bill No. 2176 increases the compensation paid to members of the Legislative Assembly for attending sessions of the Legislative Council and its meetings from $75 per day to $100 per day.

House Bill No. 1032 increases the membership of the Advisory Commission on Intergovernmental Relations from 11 members to 12 members. The bill provides that the additional member must be appointed by the North Dakota School Boards Association.

OFFICE OF MANAGEMENT AND BUDGET

House Bill No. 1015 requires the Office of the Budget to complete a cost-benefit analysis for each new building construction project included in budget requests submitted by state agencies,

departments, and institutions. The analysis must review options for collocating with other state agencies, departments, or institutions and consider information on related technology costs and savings. The bill requires the Office of the Budget to obtain the assistance of the Information Technology Department and requires the Information Technology Department to review the technology costs and savings involved in the proposed building and provide the analysis to the Office of the Budget. The bill requires the Office of the Budget to report on the cost-benefit analyses for building projects included in the Governor's budget recommendation to the Legislative Assembly at the same time as the Governor's budget and revenue proposals are presented.

The bill also provides that the vice chairman of the Legislative Council may serve as a member of the Emergency Commission in place of the chairman of the Legislative Council at the request of the chairman of the Legislative Council if that individual is serving on the commission in another capacity or is unable to attend a commission meeting.

The bill authorizes State Radio Communications to provide 911 services to a political subdivision with a population of fewer than 20,000.

Senate Bill No. 2151 raises the minimum value for reporting fixed assets of state entities from $750 to $5,000. The bill became effective on March 21, 2001.

House Bill No. 1169 provides that the preliminary planning revolving fund under the control of the director of the Office of Management and Budget to provide funds for schematic designs and cost estimates relating to proposed new capital improvements and major remodeling of existing facilities also may be available for studies, planning, and architectural programming.

Senate Bill No. 2003 provides that the budget estimates for the North Dakota University System must include block grants for the University System for a base funding component and for an initiative funding component for specific strategies or initiatives and a budget estimate for an asset funding component for renewal and replacement of physical plant assets at the institutions of higher education. The bill also provides that the draft of the proposed appropriations act for the North Dakota University System must include block grants for a base funding appropriation and for an initiative funding appropriation for specific strategies or initiatives, and an appropriation for asset funding for renewal and replacement of physical plant assets at the institutions of higher education in the format approved by the 57th Legislative Assembly. The bill provides that unexpended appropriations for the North Dakota University System are not subject to cancellation after the expiration of the biennium for which the appropriations are to be available. The bill requires the North Dakota University System to report on the amounts and uses of funds carried over from one biennium to the next to subsequent appropriations committees of the Legislative Assembly.

House Bill No. 1010 provides that attorneys employed by the Insurance Commissioner are exempt from the state classified service.

House Bill No. 1148 provides that if the director of the Office of Management and Budget establishes and administers a purchasing card system, the director may designate which agencies are required to use it for purchasing of items that cost less than a specified amount designated in writing by the director. The bill provides that the written directives of the director with respect to a purchasing card system need not be adopted as administrative rules.

House Bill No. 1125 provides that emergency purchases by state agencies and institutions in the executive branch must be made with the level of competition practicable under the circumstances. The bill also requires that a written determination of the basis for the emergency and for the selection of the particular contractor must be included in the contract file. The bill authorizes the Office of Management and Budget to enter term contracts for the acquisition of commodities or services and requires the Office of Management and Budget to adopt rules specifying the circumstances under which competition may be waived or limited, when negotiation may be used, and specifying the required justifications and procedures for using those methods of purchasing. The bill specifies under which circumstances limited competitive, noncompetitive, or negotiated purchases may be permitted. The bill provides that if the director of the Office of Management and Budget determines it to be in the best interest of the state, the Office of Management and Budget may agree to purchase according to contracts entered by the United States General Services Administration, or may enter cooperative purchasing agreements with a cooperative purchasing group of other state governments. The bill provides that the director of the Office of Management and Budget may waive the requirement that a vendor appoint the Secretary of State as its lawful agent if the commodity to be purchased is a one-time purchase for which at least two approved vendors are not available and the director determines consideration of bids or proposals from unregistered vendors is in the best interest of the state. The bill provides that in the event of a tie bid or proposal, the registered vendor must be given preference.

House Bill No. 1386 includes construction management within the definition of "professional services" with respect to acquisition of services by the state or state agencies.

PUBLIC EMPLOYEES RETIREMENT SYSTEM

Senate Bill No. 2082 increases the benefit multiplier under the Public Employees Retirement System from 1.89 to 2 percent; establishes a procedure for determining a member's beneficiary; provides that if a participating member repurchases service the member did not elect to repurchase upon reemployment, the member must pay to the board an amount equal to the greater of the actuarial cost to the fund of providing the credit or the amount the member received upon taking a refund of the member's account balance; allows members to purchase service credit with either pretax or aftertax moneys; provides a postretirement adjustment of six percent of the present benefit; provides a prior service adjustment of six percent of the present benefit; provides that the Retirement Board may share retirement records as needed by an employer to validate the employer's compliance with existing state or federal laws, the Retirement and Investment Office, state or federal agencies, member interest groups approved by the board, and the member's spouse or former spouse, that individual's legal representative, and the judge presiding over the member's dissolution proceeding for the purposes of aiding the parties in drafting a qualified domestic relations order; allows the Public Employees Retirement System to administer more than one deferred compensation program; defines "employee" for purposes of the deferred compensation program as a person who is at least eighteen years of age and employed in an approved and regularly funded position of unlimited duration for 20 hours or more per week and at least five months each year, including members of the Legislative Assembly; and repeals a provision relating to prior service retiree adjustments. The bill provides that the provisions relating to allowing a member to purchase service credit with either pretax or aftertax moneys become effective on the date the Board of Trustees of the Public Employees Retirement System receives a letter ruling from the Internal Revenue Service

that the provisions do not jeopardize the qualified status of the Public Employees Retirement System.

Senate Bill No. 2083 provides that permanent and total disability for Supreme Court and district court judges is based solely on a judge's inability to perform judicial duties arising out of physical or mental impairment. The bill also provides that for Supreme Court and district court judges who do not elect a single life, joint and survivor, level Social Security, or life within five-year or ten-year retirement payment option, retirement benefits must be in the form of a lifetime monthly pension with 50 percent of the benefit continuing for the life of the surviving spouse, if any. The bill also provides that participants in the judges' retirement system are entitled to receive a two percent postretirement adjustment in their present monthly benefit beginning January 1, 2002, and again on January 1, 2003. The bill repeals a provision relating to the postretirement adjustments for Supreme Court and district court judges.

House Bill No. 1099 transfers from North Dakota Century Code (NDCC) Section 54-52.1-06 to Section 54-52-04 authority of the Retirement Board to use amounts credited to the separate uniform group insurance program fund in excess of the costs of administration of the uniform group insurance program to reduce the premium amounts paid monthly by enrolled members of the uniform group insurance program, to reduce increases in premium amounts paid monthly by enrolled members, or to provide increased insurance coverage to members, as determined by the board. The bill provides that retirees who have accepted a periodic distribution from the defined contribution retirement plan are eligible for retiree health benefits. The bill provides that premium payment amount and history, employee premiums made, salary reduction amounts taken, and history of any available insurance coverage purchased for any available insurance coverage are confidential, but the Retirement Board may disclose certain information and records to persons or entities to which the board is required to disclose information pursuant to federal statute or rules or to a member's spouse or former spouse if the member is involved in a dissolution proceeding.

House Bill No. 1216 extends the time period within which state employees eligible to participate in the defined contribution retirement plan may elect to participate in the plan until September 30, 2001.

House Bill No. 1100 provides that eligible employees under the Public Employees Retirement System may elect to participate in the defined contribution retirement plan on the date the employee is first notified of eligibility as well as at any time during the first six months after the date of employment, whichever is later. The bill provides that deferred members who are reemployed have six months after the date of reemployment or the date the employee is first notified of eligibility, whichever is later, rather than 60 days, to elect to participate in the defined contribution retirement plan. The bill provides that participants who become employed by a political subdivision that participates in the Public Employees Retirement System must remain in the defined contribution retirement plan, but participants who become employees of the judicial branch, the State Board of Higher Education, a state institution under the jurisdiction of the State Board of Higher Education, Highway Patrol, or any position subject to the Teachers' Fund for Retirement membership must become a new member of the retirement plan for which that member's new position is eligible. The bill allows participating members to roll over funds from other qualified plans into the member's account and allows distribution of the participating member's vested account balance if the board determines the participating member has become totally and permanently disabled.

House Bill No. 1365 requires the Retirement Board to provide for issuance of uniform prescription drug cards under a contract for insurance or under a self-insurance plan in the same manner as required of insurance companies.

House Bill No. 1449 allows members of the Legislative Assembly to participate in the pretax benefits program of the Public Employees Retirement System. The bill becomes effective on January 1, 2002.

OFFICE OF ADMINISTRATIVE HEARINGS

House Bill No. 1455 changes references to "hearings" under NDCC Chapter 28-32 to "adjudicative proceedings."

INFORMATION TECHNOLOGY DEPARTMENT

Senate Bill No. 2043 requires the Information Technology Department to review the cost-benefit analysis of any major project of the State Board of Higher Education or any institution under the control of the board if the project significantly impacts the statewide wide area network, impacts the statewide library system, or is an administrative project. The bill authorizes the Information Technology Department to finance the purchase of equipment or software if the financing agreement does not exceed a period of three years. The bill provides that the Information Technology Department may finance the purchase of software, equipment, or implementation services only to the extent the purchase amount does not exceed the amount appropriated to the department during that biennium for equipment. The bill specifies additional requirements that must be included in the department's business plan. The bill replaces the Statewide Wide Area Network Advisory Committee with a State Information Technology Advisory Committee consisting of the Chief Information Officer, the director of the Division of Economic Development and Finance, the commissioner of higher education, the chairman of the Information Technology Council of North Dakota, the director of the North Dakota Workforce Development Council, the chairman of the Educational Technology Council, and eight members appointed by the Governor. The bill requires the State Information Technology Advisory Committee to advise the department regarding statewide information technology planning, including providing electronic government services for citizens and businesses, developing technology infrastructure to support economic development and workforce training, and developing other statewide information technology initiatives and policy. The bill changes the deadline for agencies submitting information technology plans from January 15 to March 15 of each even-numbered year. The bill requires each agency submitting information to the Information Technology Department to notify the department regarding the confidential nature of information submitted to the department. The bill requires the Information Technology Department to prepare and present an annual report to the Information Technology Committee and present a summary of the annual report to the Budget Section and the Legislative Audit and Fiscal Review Committee.

Senate Bill No. 2251 replaces the Educational Telecommunication Council with an Educational Technology Council consisting of 12 members. The bill requires the Educational Technology Council to coordinate the use of technology and development of technology systems to enhance educational opportunities for elementary and secondary education, cooperate with state agencies and other organizations to develop statewide educational technology systems, appoint a technology director, and hire the director of the Division of Independent Study.

DEPARTMENT OF COMMERCE

Senate Bill No. 2032 consolidates the Division of Community Services, Department of Economic Development and Finance, and Tourism Department into a Department of Commerce administered by a commissioner of commerce. The bill creates a North Dakota commerce cabinet composed of the directors of each of the department's divisions and of the executive heads or other authorized representatives of the State Board for Vocational and Technical Education, the State Board of Higher Education, the Bank of North Dakota, the Department of Agriculture, the Workers Compensation Bureau, the director of the Department of Transportation, Job Service North Dakota, the Game and Fish Department, and of any other state agency appointed by the commissioner. The cabinet is required to coordinate and communicate economic development and tourism efforts of the agencies represented and develop and make available before each regular session of the Legislative Assembly a list that identifies economic development moneys included in budget requests of cabinet agencies. The bill creates a North Dakota economic development foundation composed of at least 15 but no more than 30 members appointed by the Governor. The bill provides that the purpose of the foundation is to provide the Governor advice in selecting the commissioner of the Department of Commerce and to serve in an advisory role to the commissioner. The foundation is also required to develop a strategic plan for the development of value-added agriculture, develop a strategic plan for economic development in the state, and to set accountability standards, measurements, and benchmarks to evaluate the effectiveness of the department in implementing the economic development strategic plan.

House Bill No. 1423 changes the state building code from the Uniform Building Code to the International Building, Residential, Mechanical, and Fuel Gas Codes. The bill establishes a state building code advisory committee consisting of nine members. The bill provides that the building code may not be amended unless the amendment is approved by a majority vote of one representative appointed by the North Dakota chapter of the American Institute of Architects, one representative appointed by the North Dakota Society of Professional Engineers, one representative appointed by the North Dakota Association of Builders, one representative appointed by the North Dakota Association of Mechanical Contractors, one representative appointed by the Associated General Contractors, and representatives of eligible jurisdictions as established by administrative rule. The bill provides that the state building code in effect on January 1, 2001, must remain in effect until publication of rules to implement the International Building, Residential, Mechanical, and Fuel Gas Codes as the state building code.

House Bill No. 1210 authorizes the manufacturer of a modular residential or commercial structure that is built in a factory to contract with a third party for the inspection of the structure for compliance with all applicable building, electrical, fire, and plumbing codes and standards during the manufacturing process in the factory. The bill requires the Department of Commerce to adopt rules for the certification of inspectors and for the procedures to be followed in conducting inspections of modular residential and commercial structures. The bill provides that if a manufacturer of modular residential or commercial structures contracts with a certified third-party inspector to monitor compliance with all applicable building, electrical, fire, and plumbing codes and standards for a modular residential or commercial structure, no further inspection by state or local building, electrical, fire, or plumbing inspectors may be required for that structure during the manufacturing process in the factory.

House Bill No. 1400 requires the Department of Commerce to manage and administer a rural growth incentive program through which a city with a population of less than 2,500 may be designated as a rural growth incentive city. The bill provides that the department must designate an applicant city as a rural growth incentive city if the city raises funds in the amount of a dollar for dollar match for the amount requested in the loan, prepares an economic development strategic plan, and meets any additional program requirements provided by rule. The bill provides that if the department designates a city as a rural growth incentive city, subject to the availability of funds, the state must make a loan to the city in an amount not less than $25,000 and not more than $75,000.

Senate Bill No. 2379 establishes a Value-added Agriculture Promotion Board consisting of eight members. The bill requires the board to administer the value-added agriculture program and review business plans for value-added agricultural products. The board is required to promote the formation, development, and growth of value-added agricultural products and takes steps to improve the projects' chances for success. The bill provides that if a project is selected for promotion by the board, the board must appoint a finance and advisory group for the project to assist the project in completing a feasibility study and a business plan for the project and in seeking early stage money. The bill allows the board to impose a fee of not more than $1,000 per project for review and assistance provided for the project.

Senate Bill No. 2019 removes the requirement that the director of the Tourism Division appoint an advisory board. The bill also authorizes the director of the Tourism Division to obtain copyright or trademark protection for anything that may be used to promote the state's tourism policies. The bill authorizes the director to license and charge a fee for photographs and logos or anything with copyright or trademark protection. The provisions of the bill relating to the copyright and trademark protection became effective on April 28, 2001.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 55

State Historical Society and State Parks
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 55. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

Senate Bill No. 2424 establishes the State Historical Society of North Dakota as an agency of the executive branch which is under the supervision and control of the State Historical Board; changes the name of the superintendent of the State Historical Board to the director of the State Historical Society; increases the number of board members from 7 to 12; and makes the Secretary of State, director of the Parks and Recreation Department, director of the Department of Transportation, director of the Tourism Department, and the State Treasurer members of the board rather than ex officio members of the board. The bill becomes effective on July 1, 2001.

Senate Bill No. 2420 appropriates $15,000 from the general fund to the State Historical Society of North Dakota to reimburse Pembina County for its cost in acquiring a cemetery variously known as the Selkirk Cemetery, the Metis Cemetery, or the Dumoulin Mission Cemetery, upon the condition that Pembina County either keeps and preserves the property or in the alternative transfers the property to a suitable organization by deed adequately protecting the county by providing that the suitable organization, its successors and assigns, will preserve and maintain the property solely as a cemetery, for no other purpose, in perpetuity.

Prepared by the North Dakota Legislative Council staff

May 2001

TITLE 57
Taxation
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 57. Bills primarily affecting other titles may 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: Tax Commissioner and tax administration; income taxes; sales, use, and motor vehicle excise taxes; property taxes; telecommunications taxes; fuels taxes; oil taxes; coal taxes; and tobacco taxes.

TAX COMMISSIONER AND TAX ADMINISTRATION

House Bill No. 1006 increases the annual salary of the Tax Commissioner from $66,282 to $68,277 effective July 1, 2001, $72,374 effective January 1, 2002, and $73,821 effective July 1, 2002.

Senate Bill No. 2053 transfers beer and liquor wholesale tax collection and express and air carrier transportation tax administration responsibilities from the State Treasurer to the Tax Commissioner.

House Bill No. 1063 allows imposition of personal liability for members of a member-controlled limited liability company for unpaid tobacco products, income withholding, sales or use, motor vehicle fuel, importer for use, special fuels, or aviation fuel taxes.

Senate Bill No. 2060 revises penalties under the income tax and sales or use tax laws to apply a penalty of five percent or $5 per month, whichever is greater, up to 25 percent, for failure to file tax returns. The bill eliminates graduated penalties based on the filer's delinquency history.

Senate Bill No. 2058 adds telecommunications carrier taxes to the taxes under which the Tax Commissioner may assign a delinquent tax liability to a collection agency for collection from a taxpayer not residing or domiciled in North Dakota.

Senate Bill No. 2064 creates an exception to secrecy and confidentiality provisions of tax laws to allow the Tax Commissioner to disclose name and address information from returns to the United States Postal Service or a national change-of-address vendor to obtain correct address information for that taxpayer.

INCOME TAXES

House Bill No. 1399 replaces federal income tax liability with federal taxable income as the starting point for the short-form return for individual, estate, and trust income taxes. The 14 percent tax on federal income tax liability is replaced by five separate rate tables for the categories of single, married filing jointly, married filing separately, head of household, and estates and trusts. The tables provide rates that are 14 percent of the applicable federal rate for each income bracket within these five filing categories. The bill provides for inflation indexing of income brackets within the filing categories based on the adjustments provided by current

federal law for the federal brackets. The bill allows the Tax Commissioner to prescribe tax tables to be used to compute taxes on the short-form return.

Senate Bill No. 2252 increases from $1,000 to $1,750 the long-form income tax deduction for adoption expenses and allows the deduction to be carried forward for up to five taxable years. The bill allows a deduction from federal income tax liability on the short-form individual income tax return in the amount of the taxpayer's federal qualified adoption expense credit, not exceeding $1,750.

House Bill No. 1223 allows installations on property leased by the taxpayer to qualify for the long-form income tax credit for installation of geothermal, solar, or wind energy devices. To qualify for the credit, the device must be installed before January 1, 2011. For a device installed before January 1, 2001, the credit is equal to five percent per year for three years, or for a device installed after December 31, 2000, is equal to three percent per year for five years, of the actual cost of acquisition and installation of the device.

Senate Bill No. 2386 allows a long-form and short-form individual income tax credit for investment in a cooperative or limited liability company organized to process and market agricultural commodities, having an agricultural commodity processing facility in this state, and having a majority of its ownership interests owned by producers of unprocessed agricultural commodities. The maximum annual investment for which the credit is allowed is $20,000, no more than 50 percent of the credit may be claimed in a single taxable year, and the credit may not exceed 50 percent of the taxpayer's income tax liability. Investments for which credits are claimed must remain in the business for at least three years and must be expended by the business for plant, equipment, research and development, marketing and sales activity, or working capital for the business.

House Bill No. 1413 allows the seed capital investment tax credit to be claimed on the short-form return. The bill reduces from 25 to 10 the number of employees a business must employ and reduces the annual sales requirement from $250,000 to $150,000 for a business to qualify for investments under the credit. The bill allows an organization to be a qualified business if it attracts investments to build and own a value-added agricultural processing facility that it leases with an option to purchase to a primary sector business. The bill eliminates the limitation that the seed capital credit may not exceed 50 percent of the taxpayer's tax liability. The bill increases the aggregate amount of allowable seed capital investment tax credits from $250,000 to $1,000,000 through calendar year 2002 and to $2,500,000 after calendar year 2002.

Senate Bill No. 2189 allows a corporate income tax deduction for passthrough dividends paid to shareholders by a regulated investment company.

Senate Bill No. 2122 provides individual income taxpayers an option to designate on the tax return a contribution to the trees for North Dakota program trust fund.

House Bill No. 1065 provides that a nonresident partner's share of both ordinary partnership income and guaranteed payments must be apportioned to North Dakota for income tax purposes, based on the partnership's percentage of business in North Dakota.

House Bill No. 1072 increases from $250 to $500 the annual amount withheld from employees at which employers are required to file quarterly rather than annual income tax withholding returns.

House Bill No. 1076 creates an exception to income tax confidentiality laws to allow the Tax Commissioner to provide Social Security numbers and federal employer identification numbers, to allow the unclaimed property division to match property with its rightful owner.

House Bill No. 1077 establishes a filing date of May 15 for calendar year filers, or the 15th day of the fifth month after the tax year for fiscal year filers, for income tax returns of exempt organizations required to report unrelated business taxable income. The bill also allows an extension of time to assess tax to be agreed by the taxpayer and the Tax Commissioner.

House Bill No. 1078 increases from $200 to $500 the threshold of tax liability at which an individual is required to make quarterly estimated income tax payments.

Senate Bill No. 2032 removes the statutory designation of the short-form income tax return as the optional method and provides that the long-form return is the optional method.

SALES, USE, AND MOTOR VEHICLE EXCISE TAXES

Senate Bill No. 2455 adopts the simplified Sales and Use Tax Administration Act to allow representatives of the state of North Dakota to enter multistate discussions to develop a streamlined sales and use tax agreement.

House Bill No. 1052 extends through June 30, 2002, the one and one-half percent sales and use tax rate for used farm machinery and irrigation equipment and farm machinery repair parts, which would have reverted to a three percent tax rate on July 1, 2001. The bill also provides that effective July 1, 2002, used farm machinery and irrigation equipment and farm machinery repair parts are exempt from sales and use taxes.

Senate Bill No. 2181 imposes a three percent surcharge on each motor vehicle rental contract of fewer than 30 days for a vehicle of a gross vehicle weight of 10,000 pounds or less. A company that collects surcharges is required to file an annual report stating the amount of motor vehicle excise taxes paid to North Dakota on its rental vehicles. A rental company is entitled to retain all surcharge collections up to the amount of its motor vehicle excise taxes during the calendar year and the excess must be remitted to the Tax Commissioner and considered sales tax collections.

Senate Bill No. 2352 provides a sales tax exemption for purchase of computer and telecommunications equipment that is an integral part of a new primary sector business or a physical or economic expansion of a primary sector business.

House Bill No. 1221 provides a sales and use tax exemption for production equipment and tangible personal property used in construction of a wind-powered electrical generating facility before January 1, 2011, if the facility has an electrical energy generation unit with a nameplate capacity of 100 kilowatts or more.

Senate Bill No. 2063 allows a home rule county to supersede state law regarding exemptions from sales and use taxes. The bill also allows the Tax Commissioner to disclose information to no more than two members of the governing body of the city or county upon request regarding city lodging taxes, city lodging and restaurant taxes, or city or county sales and use taxes.

House Bill No. 1392 provides that the sales tax applies to tickets or admissions for educational, religious, or charitable activities held in a publicly owned facility when the gross receipts from the event exceed $5,000.

House Bill No. 1201 changes the basis for imposition of motor vehicle excise taxes on leased vehicles from the value of the vehicle to the total of monthly lease payments and up-front charges.

House Bill No. 1261 allows a member of the armed services stationed in this state to register a vehicle in this state without payment of motor vehicle excise taxes if the vehicle was leased and registered or licensed in another state by that individual. The bill also allows a law enforcement officer to issue a registration for a vehicle registered in another state but operated in this state by a person gainfully employed in this state.

Senate Bill No. 2209 provides a motor vehicle excise tax exemption for a vehicle purchased or leased by a resident who was a prisoner of war and who registers the vehicle with a distinctive license plate issued by the Department of Transportation for former prisoners of war.

House Bill No. 1325 provides a motor vehicle excise tax exemption for up to two motor vehicles owned by a disabled veteran who has a 100 percent service-connected disability as determined by the Department of Veterans Affairs who registers the vehicle with a distinctive license plate issued by the Department of Transportation for disabled veterans.

House Bill No. 1211 provides that for purposes of state aid distribution fund allocations to counties and cities, the population amounts to be used in the statutory allocation formula are the population figures determined by the 1990 federal decennial census, unless an official special census was subsequently conducted before January 1, 1997.

PROPERTY TAXES

Senate Bill No. 2328 allows townships to levy special assessments upon petition of 60 percent of the freeholders in a proposed improvement district, a competent engineer's report on the work, mail and newspaper notice to affected property owners, and approval by at least 60 percent of the votes on the question at a special township meeting. The bill also allows relevy of property taxes omitted by mistake in taxable year 2000 and that one-half of the omitted amount may be levied for 2001 and the remaining one-half for 2002.

House Bill No. 1031 consolidates park district levies for the general fund, insurance reserve fund, employee health care program, public recreation system, forestry, pest control, and handicapped persons' programs and activities. The levies are replaced by a general fund levy equal to the number of mills levied by the park district for those purposes in taxable year 2000, or that amount may be increased to 35 mills if approved by the electors of the park district.

House Bill No. 1222 reduces the taxable valuation of centrally assessed wind turbine electric generators from 10 percent of assessed value to three percent of assessed value if the generation unit has a nameplate generation capacity of 100 kilowatts or more and construction is completed before January 1, 2011.

Senate Bill No. 2068 provides that to be classified as inundated agricultural land for property tax purposes, the property must contain a minimum of 10 contiguous acres if its value exceeds 10 percent of the average agricultural value of noncropland for the county. The bill increases from one growing season to two consecutive growing seasons the length of time property must be inundated to qualify as inundated agricultural land. The bill excludes from inundated agricultural land any property that produced more revenue in the most recent prior year than the county average revenue per acre for noncropland. The bill requires an application for classification of property as inundated agricultural land to be filed with the township assessor or county director of tax equalization by March 31 of each year.

House Bill No. 1059 provides that, for purposes of the income limitations under the homestead credit law, the standard mileage rate for state employees is the amount used to compute transportation expenses for medical care.

Senate Bill No. 2286 provides that if a political subdivision sold property within 10 years preceding foreclosure in which a tax deed would be issued to the county, the county auditor shall instead issue a tax deed to the political subdivision that sold the property. The bill also provides a lien in favor of the county for costs of improvements made by the county to make distressed property salable, to the extent the county does not recover those costs upon sale of the property. The lien in favor of the county may be extended against real estate of a prior owner who was responsible for damage, neglect, or waste that caused the county expenditures.

Senate Bill No. 2086 allows the multiyear asbestos abatement levy for school districts to also be used for removal of lead paint substances in school buildings.

House Bill No. 1135 allows an increase from four mills to eight mills in the limit on the county levy for comprehensive health care insurance employee benefit programs, if the additional four mills is within the 30-mill limit for old-age and survivors' insurance programs.

House Bill No. 1405 increases from 5 to 10 mills the levy limitation for county, city, township, and rural ambulance service district levies for ambulance services.

Senate Bill No. 2334 allows proceeds of the township three-mill levy for mowing or snow removal equipment to be used for any costs involved with mowing or snow removal.

House Bill No. 1206 provides that if the board of county commissioners rejects an application for property tax abatement, a written explanation of the rationale for the decision must be attached to the application and mailed to the applicant.

Senate Bill No. 2062 provides that delinquent tax notices to taxpayers must advise the owner that simple interest at 12 percent per annum will be added to the delinquent amount.

Senate Bill No. 2059 makes technical corrections in property tax laws. The bill replaces some erroneous references to assessed valuation with references to taxable valuation, updates statutory forms used in tax proceedings, and reinstates provisions for collection of real estate taxes on leasehold or other possessory interests.

House Bill No. 1344 removes references to school districts from North Dakota Century Code Section 57-15-27, which allows political subdivisions to maintain an interim fund and places limits on those funds.

TELECOMMUNICATIONS TAXES

Senate Bill No. 2067 allows imposition upon wireless phones of the fee for 911 services. The bill allows the city or county to extend the fee to wireless service by a majority vote of the governing body or approval by a majority vote of electors. Fees collected on wireless service must be held in a separate fund until the governing body requests wireless enhanced 911 service or certifies its capability to receive and utilize wireless enhanced 911 service. The governing body must enter agreements with wireless service providers for wireless enhanced 911 service and may not reimburse a wireless service provider for tower construction or a wireless service provider's infrastructure not directly related to providing wireless enhanced 911 service. The bill requires annual reports from cities and counties to the state radio division and the public safety answering points coordinating committee regarding income, expenditures, and status of the emergency services communication system.

House Bill No. 1479 creates state law to conform to the Mobile Telecommunications Sourcing Act enacted by Congress, with regard to identifying the location of wireless telecommunications transactions for the purpose of determining the collection point for state and local taxes. The bill provides that charges billed by or for the customer's home service provider are deemed to be provided by the customer's home service provider and charges for mobile telecommunications services may be subjected to taxes by jurisdictions whose territorial limits encompass the customer's place of primary use. Place of primary use is defined as the street address representative of where the customer's use of the mobile telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer and within the licensed service area of the home service provider.

Senate Bill No. 2415 allows the county treasurer and auditor access to 911 system data base information on published names and telephone numbers. Names and telephone numbers not available from directory assistance remain confidential and not accessible by counties.

House Bill No. 1409 establishes standards for operation of emergency 911 telephone systems. The bill requires that beginning June 1, 2002, the closest available emergency medical service will be dispatched to the scene of medical emergencies regardless of political subdivision boundaries.

FUELS TAXES

Senate Bill No. 2454 provides a five percent reduction in special fuels taxes on sales of diesel fuel that contains at least two percent biodiesel fuel by weight. Biodiesel is defined as fuel derived from vegetable oil or animal fat suitable for blending with diesel fuel for use in diesel engines. This bill does not become effective until the first day of the first month after the Tax

Commissioner certifies that a refining facility is operational in this state with a production capacity of at least 10 million gallons of biodiesel per year.

Senate Bill No. 2019 extends until December 31, 2003, the one cent per gallon additional withholding from agricultural fuel user refunds to be retained in the highway tax distribution fund, which was scheduled to expire on December 31, 2001.

OIL TAXES

Senate Bill No. 2205 adjusts the method of determining the "trigger price" that determines when various reductions and exemptions are available under the oil extraction tax. The bill provides that the reductions and exemptions are available until the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. The bill also institutes an inflation index for the trigger price based upon changes in the producer price index for industrial commodities.

House Bill No. 1064 eliminates obsolete date references from oil and gas gross production tax laws, removes a requirement that the Tax Department publish the gas base rate adjustment in the North Dakota Administrative Code, makes clear that oil sold at the time of production or sold from inventory is subject to gross production tax, and removes obsolete date references from oil extraction tax laws.

COAL TAXES

Senate Bill No. 2299 reduces the coal severance tax rate from 75 cents to 37.5 cents per ton and retains the two cent per ton research and development tax. The bill increases by .40 mills per kilowatt hour the coal conversion tax for electrical generating plants based on nameplate capacity of the facility. The bill adjusts the coal severance and coal conversion tax allocation formulas to retain approximately equal allocations among state and political subdivision recipients as were allocated under previous law. The bill reduces the generation capacity of an electrical generating plant to be classified as a coal conversion facility from 120,000 kilowatts to 10,000 kilowatts. The bill provides that each county may receive not less than it received in the previous calendar year under the coal conversion tax and for a county in which a facility is located that was not a coal conversion facility before the effective date of this bill, that county must receive an additional amount that is at least as much as was received in property taxes for that facility for taxable year 2001. The bill eliminates sales tax provisions that have been determined to be unconstitutional with regard to sales tax to be imposed for imported coal.

TOBACCO TAXES

Senate Bill No. 2408 changes the basis for imposition of tobacco products tax for snuff and chewing tobacco from 28 percent of the wholesale purchase price to 60 cents per ounce for snuff and 16 cents per ounce for chewing tobacco.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 58
Townships
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 58. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1327 increases the compensation for townships supervisors, clerks, and treasurers from $15 to $20 per day and increases the maximum annual compensation for those officers from $450 to $600 per year. The bill also changes the mileage reimbursement for township officers from 20 cents per mile to a rate not exceeding the allowable mileage rate accepted by the United States Internal Revenue Service.

Senate Bill No. 2315 allows a board of township supervisors to contract with a county sheriff to perform the duties of poundmaster if the township supervisors have not appointed a poundmaster. The bill also provides that if the actual expenses of the poundmaster are not paid for impounding an animal within five days after impoundment, the poundmaster is required to publish notice in the official newspaper of the township which states that unless the animal is removed and the expenses paid within 10 days after the date of notice, the poundmaster is required to sell the animal at a public sale. The bill requires the poundmaster to provide humane treatment and care for any impounded animal and allows the poundmaster to offer the animal for adoption if the animal cannot be sold. The bill requires the poundmaster to destroy the animal if the animal has not been adopted after five days. The bill grants a poundmaster or the poundmaster's agent, when acting in an official capacity and making a good-faith effort to comply with law, immunity from any civil or criminal liability for acts taken while attempting to comply with the requirements of law. The bill requires a poundmaster to contact the brand inspector and deliver or arrange for the delivery of an animal to a licensed livestock market if the poundmaster comes into possession of an animal the poundmaster believes is an estray. The bill requires the brand inspector to provide for the disposition of any such animal and allows the poundmaster to recover charges and expenses for delivery of the estray.

Senate Bill No. 2328 allows a township to defray the expenses of improvements by special assessment. The bill establishes procedures for establishing a special assessment district; approving plans, specifications, and cost estimates; and publishing notice of the findings of the engineer hired to prepare a report regarding the general nature, purpose, and feasibility of the proposed improvement. The bill provides that at a special township meeting for disclosure of the findings of the engineer, the freeholders of the township in attendance are entitled to vote on the question of whether to proceed with the improvement project. The bill requires approval by 60 percent or more of the votes cast at the meeting or votes filed with the township clerk within 15 days after the meeting to allow the project to proceed. The bill provides that a freeholder affected by the project is entitled to vote one vote for each dollar of the proposed special assessment against the freeholder's property within the proposed improvement district. The bill also provides procedures for the appeal of special assessments.

Prepared by the North Dakota Legislative Council staff
June 2001

TITLE 59
Trust, Uses, and Powers
Summary of Bills Enacted by 2001 Legislative Assembly

There was no legislation enacted which primarily affected 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.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 60
Warehousing and Deposits
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 60. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

Senate Bill No. 2074 raises the annual license fee for public warehouses and for facility-based grain buyers by $50. It also authorizes the Public Service Commission to issue cease and desist orders upon its own motion and without complaint.

Senate Bill No. 2413 provides that if a written contract for the sale of grain does not contain provisions to settle a disagreement, the parties involved must attempt to resolve their disagreement through the use of mediation or arbitration.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 61
Waters
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 61. Bills primarily affecting other titles also affect this title, and the relevant provisions of those bills are summarized in this memorandum.

The legislation relating to waters may be classified in these subject areas: water development and flood control projects; State Water Commission; appropriation of water; water resource districts and drains; irrigation districts; Southwest Pipeline Project and Southwest Water Authority; and miscellaneous.

WATER DEVELOPMENT AND FLOOD CONTROL PROJECTS

House Bill No. 1023 appropriates $9,733,820 from the general fund to the State Water Commission. Of this amount, $200,000 is for cost-sharing for projects authorized under Section 319 of the Federal Water Pollution Control Act for the control of nonpoint sources of pollution. The bill authorizes the commission to sell its maintenance shop and use the proceeds to purchase land and construct a building and associated appurtenances to be used as a new maintenance facility. The bill adds cost-sharing for water quality improvement projects to the state water resources policy and provides that the commission may develop a plan and estimate of the costs for supplementing the water resources of eastern North Dakota with water supplies from other available resources, including the Missouri River, and may employ full-time personnel and other personnel as are necessary for the administration of the provision declaring that providing water to eastern North Dakota is a critical priority. The bill identifies municipal, rural, and industrial projects; irrigation projects; general water management projects, including rural flood control, snagging and clearing, channel improvement, recreation, and planning studies; flood control projects; and weather modification projects as water development priorities for the statewide water development program for the 2001-03 biennium. The commission is authorized to provide the funds necessary to construct these projects from money appropriated from the resources trust fund, the water development trust fund, or by issuing bonds in an amount not to exceed $20 million plus the cost of issuance of the bonds, capitalized interest, and reasonably required reserves. In addition, the commission is authorized to use up to $5,500,000 from the water development trust fund, resources trust fund, or from bond proceeds to provide up to one-half of the cost of a flood control channel and levee project designed to provide protection from overland flooding for Fargo. The principal and interest on bonds issued for these projects are payable from the water development trust fund, then from revenues in the resources trust fund other than revenues from state taxes, then from other available revenues in the then current biennium, and then from any other revenues the commission makes available during the then current biennium for that purpose. If sufficient funds from these sources are not available, then the principal and interest on these bonds are to be paid from transfers from the first available current biennial earnings of the Bank of North Dakota not to exceed $6,500,000 per biennium prorated with any other bonds payable from transfers to be made and appropriated from the available current biennial earnings of the Bank. The bill limits the total expenditures for statewide water development projects for the 2001-03 biennium to $67,800,000, plus, if bonds are issued, the costs of issuance of the bonds, capitalized interest, and reasonably required reserves. The bill transfers $9,733,820 from the water development trust fund to the general

fund and extends the authority of the commission to issue bonds under North Dakota Century Code Chapter 61-02.1 through June 30, 2003.

House Bill No. 1151 deletes the requirement that the federal government participate in the construction of a Devils Lake outlet before bonds may be issued for the project and authorizes the State Water Commission to use the "quick take" eminent domain procedure to acquire property for construction of a Devils Lake outlet whereby the commission may take possession of property needed for an outlet after making a written offer to purchase and depositing the amount of the offer with the clerk of the district court of the county in which the property is located. This bill became effective April 3, 2001.

Senate Bill No. 2256 extends the authority of the State Water Commission to issue bonds for construction of an outlet from Devils Lake through June 30, 2003.

Senate Bill No. 2264 extends the authority of the State Water Commission to issue bonds for a flood control or reduction project in Grand Forks through June 30, 2003.

STATE WATER COMMISSION

Senate Bill No. 2285 authorizes the State Water Commission to assume jurisdiction over and administration of the Section 404 program of the Clean Water Act. The bill appropriates $800,000 from the water development trust fund for this purpose and authorizes the commission to employ five additional full-time equivalent positions to implement the Section 404 program. The bill becomes effective on the date the State Engineer certifies to the Governor that a program has been designed to effectively assume responsibility for the Section 404 program and the State Water Commission is ready to assume those responsibilities.

Senate Bill No. 2128 provides that a member of the State Water Commission who has a direct or indirect personal or pecuniary interest in a matter before the commission must disclose that fact to the commission and may not participate in or vote on that particular matter, but that Sections 12.1-13-02, relating to speculating or wagering on official action or information, 12.1-13-03, relating to a public servant's interest in public contracts, and 48-02-12, providing that officers may not be pecuniarily interested in or concerned directly or indirectly in any public contract, do not apply to contracts in which a member of the commission is directly or indirectly interested if the member has disclosed that fact.

APPROPRIATION OF WATER

Senate Bill No. 2182 extends the period within which a person must file an application for a water permit to obtain a prescriptive water right to December 31, 2001, and provides that the first step to appropriate water may consist of survey work, drilling, ditching, damming, diking, or other actual preparation for the appropriation of water provided that the first step was followed by due diligence resulting in the appropriation of water.

WATER RESOURCE DISTRICTS AND DRAINS

Senate Bill No. 2287 authorizes water resource district boards to undertake the snagging, clearing, and maintaining of natural watercourses and the debrisment of bridges and low water crossings. The bill authorizes water resource district boards to finance these projects with funds raised through special assessments not to exceed 50 cents per acre annually on agricultural lands and 50 cents annually for each $500 of taxable valuation of nonagricultural property.

House Bill No. 1060 provides that water resource district boards may authorize the treasurer of the district to act as custodian of drain funds.

IRRIGATION DISTRICTS

House Bill No. 1284 increases the minimum threshold at which irrigation districts must be divided into divisions or precincts from 10,000 irrigable acres to 20,000 irrigable acres.

SOUTHWEST PIPELINE PROJECT AND SOUTHWEST WATER AUTHORITY

House Bill No. 1158 increases the bonding limit for the Southwest Pipeline Project from $15 million to $25 million.

Senate Bill No. 2222 extends the mill levy for the Southwest Water Authority from each taxable year through 2006 to each taxable year through 2010.

Senate Bill No. 2223 reduces the board of directors of the Southwest Water Authority from two directors from each county within the authority and three directors from the city of Dickinson to one director from each county within the authority and two directors from the city of Dickinson. The bill also authorizes water district boards to fix reimbursement of expenses for their employees.

MISCELLANEOUS

House Bill No. 1104 deletes the requirement that the secretary of the Garrison Diversion Conservancy District send a certified copy of the district's annual tax levy and a certified copy of the district's budget to the State Auditor.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 62.1
Weapons
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 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. 1160 increases the total amount that may be transferred to the Attorney General's operating fund from a $15 portion of the concealed weapons license fee from a maximum of $50,000 each biennium to $75,000 each biennium.

Senate Bill No. 2257 allows a municipal court judge, district court judge, and a retired North Dakota law enforcement officer to possess a firearm at a public gathering if the individual has a concealed weapons license and maintains a firearms proficiency required by the Peace Officers Standards and Training Board for law enforcement officers.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 63
Weeds
Summary of Bills Enacted by 2001 Legislative Assembly

There was no legislation enacted which primarily affected 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.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 64
Weights, Measures, and Grades
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 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. 1091 increases the fees charged by the Public Service Commission for testing and calibrating various weighing and measuring devices.

Prepared by the North Dakota Legislative Council staff

June 2001

TITLE 65
Workers' Compensation
Summary of Bills Enacted by 2001 Legislative Assembly

This memorandum summarizes 2001 legislation primarily affecting North Dakota Century Code Title 65. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1015 requires the bureau to establish a single workers' compensation account for state entities covered by the state risk management fund. Through June 30, 2003, the bill requires premiums collected from these state entities to be deposited in the risk management workers' compensation fund. The bill requires the State Investment Board to invest the moneys in this fund. The bill dedicates this fund to pay workers' compensation premiums for state agencies and to pay workers' compensation claims costs not covered by the deductible contract. The bill also requires the Risk Management Division of the Office of Management and Budget to administer the account's internal workers' compensation return-to-work program and requires each state entity to participate in the return-to-work program.

House Bill No. 1024 requires income from rental space for other state entities within a Workers Compensation Bureau building to be deposited in the building maintenance account. The bill appropriates on a continuing basis moneys in the building maintenance account to pay for certain expenses of the building and grounds. The bill allows a third party to provide building maintenance and repair services for the building. The bill allows the Workers Compensation Board of Directors to determine their own compensation. In addition, the bill removes requirements that the bureau solicit bids from vocational rehabilitation vendors and contract with the lowest and best bidders on a biennial basis. The bill removes the requirement that the request for bids must contain a detailed outline of services and that the accepted bid is binding upon both the bureau and the rehabilitation vendor. The bill allows the bureau to contract with vocational rehabilitation vendors.

House Bill No. 1127 removes the June 30, 2003, expiration date for the workers' compensation program covering inmates engaged in work programs through Roughrider Industries.

House Bill No. 1129 provides the workers' compensation premium for coverage of a minor child of an employer must be based on the actual wages paid to the child.

House Bill No. 1152 expands the definition of "compensable injury" for purposes of workers' compensation by including preventative treatment for emergency medical services providers in the case of significant exposure to infectious diseases, employees of facilities licensed to provide medical care in the case of significant exposure to infectious diseases, and employees exposed to rabies in the course of employment.

House Bill No. 1153 provides an employer may not require an employee to use sick leave, annual leave, or other paid time off during the time the employee is receiving disability benefits; provides a claimant's Social Security number is no longer information available to the public; provides only employers who are required to have access to a workers' claim file for the performance of their duties may access an injured worker's claim file and willful disclosure of this

information by the employer is a Class B misdemeanor; and allows for the creation of a preferred worker program that would create incentives for employers to employ workers who have disabilities from on-the-job injuries and who are not able to return to their previous work because of those injuries.

House Bill No. 1161 implements use of the fifth edition of the American Medical Association's *Guides to the Evaluation of Permanent Impairment* for evaluating permanent partial impairments and provides a schedule of impairment benefits for amputations and for loss of an eye.

House Bill No. 1162 changes the calculation formula for supplementary benefits for all claims for injuries occurring after July 31, 2001, and changes the effective date of 1999 Senate Bill No. 2214, relating to decreasing from 10 years to 7 years the waiting period for supplementary benefits, to provide the waiting period is effective for all claims as of August 1, 2006, regardless of date of injury.

House Bill No. 1260 provides if an employer with a deductible policy brings a third-party action based on an injury incurred through the negligence of a third person, after the employee and bureau chose not to pursue the action, the employer may retain 100 percent of the recovery obtained.

House Bill No. 1496 provides that a farmer that engages in limited custom agricultural operations retains the agricultural service exemption to hazardous employment for purposes of workers' compensation.

Senate Bill No. 2121 provides that in addition to the employee, an employer of an employee who falsely claims workers' compensation benefits or payments is guilty of a Class A misdemeanor and provides that failure of an employer to secure workers' compensation coverage for employees must be willful in order to result in a Class A misdemeanor.

Senate Bill No. 2134 removes the July 31, 2001, expiration date for the workers' compensation scholarship fund program.

Senate Bill No. 2157 provides for a new procedure under which the bureau may issue a decision relating to premium and charges due from employers; changes the circumstances under which an employer may pay workers' compensation premiums in installments; changes the circumstances under which an employer's workers' compensation premium is in default and the procedure for bringing suit for the collection of premium in default; repeals several sections of law relating to employer duties to provide employee coverage, furnish information to the bureau, and pay premiums and relating to the related penalties for failure to comply with these statutory duties and creates a new section of law addressing these matters; and replaces the "pay in order" document with a "premium billing statement."