2009
NORTH DAKOTA
CENTURY CODE
TITLE SUMMARIES

LEGISLATIVE COUNCIL
STATE CAPITOL
BISMARCK, ND 58505

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Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 1
General Provisions
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting 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.

Senate Bill No. 2192 designates March 29 of each year as Vietnam Veterans' Day. The bill requires the Governor to issue an annual proclamation on March 29 in honor and remembrance of surviving and departed Vietnam veterans.

House Bill No. 1042 creates an exception to the statutory provision providing that a headnote of a section of the North Dakota Century Code is not part of a statute. The exception provided is that an effective date or expiration date note preceding a headnote is a part of the statute. This is intended to make clear that an effective date or expiration date note may be amended.

Senate Bill No. 2322 makes it optional, rather than mandatory, for the Secretary of State to adopt administrative rules to govern methods for signing, subscribing, or verifying documents filed by electronic means.

House Bill No. 1436 makes a statutory change to the journal entry rule as part of the differentiation between Legislative Management and the Legislative Council as an agency of the legislative branch.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 2
Aeronautics
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 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. 2006 allows funds from the Aeronautics Commission special fund to be used for providing up to 90 percent of the project costs, if the airport does not qualify for state assistance.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 3
Agency
Summary of Bills Enacted by 2009 Legislative Assembly

There was no 2009 legislation enacted which 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
June 2009

TITLE 4
Agriculture
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 4. Bills primarily affecting other titles also affect this title and relevant provisions of those bills are summarized in this memorandum.

AGRICULTURE COMMISSIONER

House Bill No. 1009 appropriates $7,221,883 to the Agriculture Commissioner and sets the commissioner's salary at $85,830 through June 30, 2010, and at $90,122 thereafter.

Senate Bill No. 2438 directs the Agriculture Commissioner to establish an advisory committee on sustainable agriculture and, beginning July 1, 2011, authorizes the Agriculture Commissioner to implement a program to promote agricultural commodities that are sustainably grown in this state.

House Bill No. 1125 authorizes the Agriculture Commissioner to cooperate with the United States Department of Agriculture Animal and Plant Health Inspection Service in controlling and destroying specifically listed animals. This bill broadens the authorization to include not just coyotes, wolves, bobcats, and foxes, but all fur-bearers; not just injurious field rodents in rural areas, but all such rodents; and not just certain nongame species of birds that cause crop damage or substantial economic loss but all birds that cause crop damage or substantial economic loss or which threaten human health. The bill also extends the authorization to control and destroy big game that threaten human health or domestic livestock.

House Bill No. 1149 removes the statutory reference to a state entomologist and directs that the Agriculture Commissioner employ an individual with a baccalaureate degree in entomology, plant pathology, or biological sciences.

House Bill No. 1111 updates the titles of various documents used in the rating, sampling, and labeling of milk and dairy products and authorizes the Agriculture Commissioner to adopt rules governing the labeling and distribution of processed and manufactured milk or milk products.

House Bill No. 1109 directs the Agriculture Commissioner to call an annual meeting of the commodity groups. The bill also contains several provisions applicable to the commissioner's membership on the various commodity councils and commissions. Those provisions are codified in Title 4.1 and described in the summary of Title 4.1.

House Bill No. 1459 directs the Agriculture Commissioner to attempt to arrange a noxious weed control or eradication program with all state and federal agencies and requires that a federal agency provide a report to weed control authorities detailing the methods it is using and showing cause why it is not controlling or eradicating the noxious weeds. The commissioner may specify the forms on which the federal agency report must be submitted.

COMMODITIES

Senate Bill No. 2242 raises the per diem compensation of individuals serving on agriculture-related boards and commissions to $135.

Senate Bill No. 2203 contains several provisions applicable to the North Dakota Barley Council. Those provisions are codified in Title 4.1 and described in the summary of Title 4.1.

House Bill No. 1413 contains several provisions applicable to the North Dakota Corn Utilization Council. Those provisions are codified in Title 4.1 and described in the summary of Title 4.1.

Senate Bill No. 2208 contains several provisions applicable to oilseed assessments. Those provisions are codified in Title 4.1 and described in the summary of Title 4.1.

House Bill No. 1402 contains several provisions applicable to the Wheat Commission. Those provisions are codified in Title 4.1 and described in the summary of Title 4.1.

House Bill No. 1025 reconciles statutory references resulting from the rewrite of the agricultural commodity chapters. Those provisions are codified in Title 4.1 and described in the summary of Title 4.1.

House Bill No. 1549 provides that a state license to grow or process industrial hemp for commercial purposes or research is not required if a person is licensed by the United States Drug Enforcement Agency to conduct research.

Senate Bill No. 2350 requires that the North Dakota Ethanol Council join the other commodity promotion groups in providing a report to the Legislative Assembly between the 1st and 10th legislative day of each regular session.

Senate Bill No. 2373 creates a Grape and Wine Program Committee to advise the Agriculture Commissioner on marketing and promotion of the grape and wine industry in this state and to advise the vice president for agriculture and university extension at North Dakota State University and the director of the North Dakota Agricultural Experiment Station on research priorities for the grape and wine industry in this state. The bill also appropriates $250,000 to the committee for the purpose of providing matching funds for grape research.

PESTICIDES

Senate Bill No. 2248 provides that restricted use pesticides may be sold only to persons certified as applicators by this state and to persons certified to use restricted use pesticides by another state, provided the pesticide control board determines that the certifying state's requirements are substantially similar to those of this state and further provided that the person does not use the restricted use pesticide in this state. The bill also clarifies that an individual who would be a private applicator, if certified, may not use any restricted use pesticide unless the individual complies with the certification requirements established by the board or is under the direct supervision of a certified applicator.

SEED DEPARTMENT

Senate Bill No. 2022 appropriates $6,805,495 to the State Seed Department from special funds.

MISCELLANEOUS

House Bill No. 1026 reconciles statutory references resulting from the rewrite of the noxious weed chapter. Those provisions are codified in Title 4.1 and described in the summary of Title 4.1.

Senate Bill No. 2125 designates the State Seed Department as the official seed certification agency of this state.

House Bill No. 1150 repeals state requirements pertaining to organic food standards in light of applicable federal standards.

Senate Bill No. 2368 raises the amount that may be levied by soil conservation districts from one mill to two mills.

House Bill No. 1436 changes the name of the 17-member Legislative Council to the Legislative Management and directs that the State Board of Agricultural Research and Education report to the Legislative Management.

Senate Bill No. 2009 appropriates $15,697,150 to the State Fair Association.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 4.1
Agriculture
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 4.1. Bills primarily affecting other titles also affect this title and relevant provisions of those bills are summarized in this memorandum.

COMMODITY BOARDS AND COMMISSIONS

House Bill No. 1025 rewrites the chapters of the code pertaining to the North Dakota barley council, the North Dakota Beef Commission, the North Dakota Beekeepers Association, the North Dakota Corn Utilization Council, the North Dakota Dairy Promotion Commission, the North Dakota Dry Bean Council, the North Dakota Dry Pea and Lentil Council, the North Dakota Oilseed Council, the North Dakota Potato Council, the North Dakota Soybean Council, the North Dakota Turkey Federation, and the North Dakota Wheat Commission.

House Bill No. 1413 reconfigures the manner in which the North Dakota Corn Utilization Council conducts its elections.

House Bill No. 1402 provides that the temporary increase in the wheat assessment from 12 to 15 mills will remain in effect at the level of 15 mills.

Senate Bill No. 2208 raises the assessment on sunflowers and canola from three cents to four cents and raises the assessment on flax from two cents to three cents.

Senate Bill No. 2242 increases the per diem compensation to $135 for members of the State Fair Association, the State Seed Commission, the Seed Arbitration Board, the State Board of Agricultural Research and Education, the North Dakota Barley Council, the North Dakota Beef Commission, the North Dakota Corn Utilization Council, the North Dakota Dairy Promotion Commission, the North Dakota Dry Bean Council, the North Dakota Dry Pea and Lentil Council, the North Dakota Oilseed Council, the North Dakota Potato Council, the North Dakota Soybean Council, the North Dakota Wheat Commission, the Agricultural Products Utilization Commission, the Milk Marketing Board, the State Soil Conservation Committee, the North Dakota Agricultural Mediation Service Board, the State Board of Animal Health, and the State Board of Appraisers.

House Bill No. 1109 removes the Agriculture Commissioner from membership on the various agricultural commodity boards and commissions and provides that the commissioner may participate as a nonvoting member in any regular or special meeting of such groups. The bill also requires that the Agriculture Commissioner call an annual meeting of commodity group representatives for the purpose of engaging in collaborative efforts to promote and market agricultural commodities.

NOXIOUS WEEDS

House Bill No. 1026 rewrites the statutory provisions pertaining to the control of noxious weeds in this state.

House Bill No. 1270 allows the Agriculture Commissioner to inspect forage for the purpose of certifying that weeds prohibited according to the standards of the North American Weed Management Association are not cut when producing viable seeds and included in baled forage.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 5
Alcoholic Beverages
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 5. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

House Bill No. 1500 lowers from 19 years of age to 18 years of age or older the individuals that may be employed by a restaurant to serve and collect money for alcoholic beverages.

House Bill No. 1345 removes the qualification for a retail alcoholic beverage license that the licensee be a resident of this state.

House Bill No. 1249 creates a domestic distillery license issued by the Tax Commissioner for a distillery that is located within this state that uses a majority of North Dakota farm products to manufacture and sell spirits produced on the premises. The bill allows a domestic distillery to sell on sale or off sale and to direct ship to persons inside or outside this state in limited amounts. The bill allows a domestic distillery to give free samples of its products and to sell its products by the glass or enclosed containers at trade shows, conventions, festivals, or similar events with a special events permit from the Tax Commissioner.

Senate Bill No. 2416 reduces the tax on sparkling wine of $1 per gallon to 50 cents per gallon, which is the tax rate for other wine containing less than 17 percent alcohol by volume.

Senate Bill No. 2096 clarifies that when a person who is publicly intoxicated is placed in jail, or if the person is admitted to a hospital or detoxification center, upon admission, the law enforcement officer must make reasonable efforts to notify the intoxicated person's family. The bill requires costs incurred by ambulance services or medical service providers to be recoverable from the intoxicated person.

House Bill No. 1087 changes references to the Bureau of Alcohol, Tobacco, Firearms and Explosives to the Alcohol and Tobacco Tax and Trade Bureau. In addition, the bill requires a microbrew pub to file monthly sales reports with the Tax Commissioner by the 15th day of the month following the month in which the sales are made in a form and manner as prescribed by the Tax Commissioner.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 6
Banks and Banking
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 6. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

The legislation relating to banks and banking may be classified in these subject areas: financial institutions and credit unions, programs, and miscellaneous.

FINANCIAL INSTITUTIONS AND CREDIT UNIONS

House Bill No. 1096 provides a banking institution that seeks to discontinue operation of a separate facility may notify the Commissioner of Financial Institutions and the commissioner may order approval of the cancellation. Additionally, the bill provides that instead of requiring a banking institution to publish notice of an application for a separate banking facility, the institution shall provide a board-approved notice.

House Bill No. 1143 amends the law requiring credit unions to make reports to the Commissioner of Financial Institutions, providing credit unions may submit their call reports to the commissioner by electronic submission, and increasing the fine for late filings of call reports.

House Bill No. 1152 expands the authority of the Department of Financial Institutions, State Banking Board, and State Credit Union Board to take disciplinary actions against officers, directors, and employees of financial corporations and financial institutions to include taking disciplinary actions against former officers, directors, and employees.

House Bill No. 1154 creates a definition of "Tier 1, Tier 2, and Tier 3 capital" for purposes of the banks and banking law.

House Bill No. 1155 allows for the guaranty of payment or collection of a loan made upon real estate in the case of the sale of a residential mortgage on the secondary market.

House Bill No. 1207 provides the chapter of law relating to financial institution disclosure of financial information does not apply to a disclosure made by the Disciplinary Board of the North Dakota Supreme Court, or similar entity of another state, with respect to dishonor of an instrument issued against a trust account maintained by an attorney or law firm.

Senate Bill No. 2220 amends the law relating to a banking account owned by a minor, providing a bank may honor all payment orders made by a minor on an account for which the minor is listed as an account owner.

Senate Bill No. 2240 provides an industrial bank may not accept deposits or make loans at a commercial location unless the industrial bank is owned by a financial holding company.

Senate Bill No. 2281 removes the requirement that a bank's solicitation and receipt of deposits for custodial accounts for the purpose of health savings or similar health care cost funding accounts, retirement fund contracts, or pension programs be funded only in savings accounts or certificates of deposit.

PROGRAMS

House Bill No. 1202 removes the July 31, 2009, expiration date from the law authorizing the Bank of North Dakota to invest its funds in alternative and venture capital investments and early-stage capital funds and expands the authorization to allow the investments to be used for entrepreneurship awards.

House Bill No. 1324 repeals a cross-referenced section relating to definitions used on the long-form income tax form and imports the current definition of "beginning farmer" for the beginning farmer loan guarantee program.

Senate Bill No. 2100 modifies the maximum amount of guarantees the Bank of North Dakota may have under the beginning entrepreneur loan guarantee program from allowing the Bank to guarantee up to $8 million in loans

outstanding to providing the outstanding guarantees at the time of issuance may not exceed 5 percent of the Bank's Tier 1 capital.

Senate Bill No. 2103 removes the July 31, 2009, expiration date from the law authorizing the Bank of North Dakota to invest its funds in North Dakota alternative and venture capital investments and early-stage capital funds.

Senate Bill No. 2126 removes the statutory net worth dollar limit for eligibility of a farmer to be considered a farmer under the Family Farm Survival Act and the net worth eligibility requirement for a loan under the Financial Assistance for Family Farmers Program and instead allows the Bank of North Dakota to set the net worth limits, removes the statutory dollar limit on the Family Farm Survival Act and the Financial Assistance for Family Farmers Program for purchases of participation interests in loans and instead allows the Bank to set the limits, and removes the statutory maximum loan amount for a loan under the Financial Assistance for Family Farmers Program and instead allows the Bank to set the limit.

Senate Bill No. 2225 expands the definition of "business" and thereby the authorized recipients of funding under the partnership in assisting community expansion program by including a person that provides child care.

Senate Bill No. 2332 creates two new loan funds to be administered by the Bank of North Dakota--the health information technology loan fund and the health information technology planning loan fund--which provide loans to health care providers to purchase and upgrade electronic health record technology, train personnel in its use, and improve security of information exchange and provide low-interest loans to health care entities to assist those entities in improving health information technology infrastructure.

MISCELLANEOUS

Senate Bill No. 2136 increases from $200,000 to $500,000 the amount the Public Finance Authority may lend to a political subdivision or other qualifying borrower under the capital financing program without prior approval of the Industrial Commission.

Senate Bill No. 2160, as part of the bill implementing regulation of residential mortgage brokers under the federal S.A.F.E. Act, updates a statutory cross-reference and clarifies funds in the financial institutions regulatory fund which are collected for use in the next succeeding biennium are not used in calculating the biennium maximum for the fund.

Senate Bill No. 2242 increases the per diem for members of the North Dakota Agricultural Mediation Service from $75 per day to $135 per day.

Senate Bill No. 2328 provides an agreement to operate or share an automated teller machine may not prohibit the owner or operator of the automated teller machine from imposing an access fee or surcharge on an individual who conducts a transaction using a foreign account.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 7
Building and Loan Associations
Summary of Bills Enacted by 2009 Legislative Assembly

There was no 2009 legislation enacted which 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 2009

TITLE 8
Carriage
Summary of Bills Enacted by 2009 Legislative Assembly

There was no 2009 legislation enacted which primarily affected 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.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 9
Contracts and Obligations
Summary of Bills Enacted by 2009 Legislative Assembly

There was no 2009 legislation enacted which primarily affected North Dakota Century Code Title 9. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 10
Corporations
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 10. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

The legislation relating to corporations may be classified in these subject areas: North Dakota Development Fund, Inc.; securities; and miscellaneous.

NORTH DAKOTA DEVELOPMENT FUND, INC.

House Bill No. 1202 modifies the powers and duties of the North Dakota Development Fund, Inc., allowing the scheduled August 1, 2009, expiration of the corporation's authority to borrow funds from the Bank of North Dakota to invest in North Dakota alternative and venture capital investments and early-stage capital funds; extending the previously planned August 1, 2009, expiration of the corporation's authority to provide management services for the Bank's alternative and venture capital investments and early-stage capital funds; and directing the corporation to administer an entrepreneurship award program that provides funding awards to entrepreneurial centers and to entrepreneurs with an August 1, 2015, expiration date.

Senate Bill No. 2110 modifies the powers and duties of the North Dakota Development Fund, Inc., allowing the scheduled August 1, 2009, expiration of the corporation's authority to borrow funds from the Bank of North Dakota to invest in North Dakota alternative and venture capital investments and early-stage capital funds and removing the previously planned August 1, 2009, expiration of the corporation's authority to provide management services for the Bank's alternative and venture capital investments and early-stage capital funds.

Senate Bill No. 2225 authorizes the North Dakota Development Fund, Inc., to provide financing to early childhood facilities and to make grants or loans to match grants or loans made by county-authorized or city-authorized development corporations, job development authorities, and regional planning councils for the purpose of acquiring, leasing, or remodeling of real estate facilities or for acquiring equipment for establishing or expanding a licensed early childhood facility.

SECURITIES

House Bill No. 1100 amends various sections of the law relating to the definition of institutional investor, securities transactions exempt from registration, securities registration filing fees, and electronic filing. The majority of the bill pertains to the capital formation aspect of the Securities Commissioner's functionality.

House Bill No. 1284 reflects statutory reference changes relating to life settlement contracts and reflects a terminology change from referring to viatical settlement contracts to life settlement contracts.

MISCELLANEOUS

House Bill No. 1298 allows for the creation of a nonprofit limited liability company, enables commercial registered agents to maintain multiple registrations with different addresses, streamlines the process related to the court-appointed reinstatement of business entities, removes certain information currently required on foreign corporation annual reports, and makes the annual report filing requirement between the various types of business entities more uniform.

House Bill No. 1324, as part of the bill that repealed the North Dakota individual, estate, and trust income tax long-form, amends the certified nonprofit development corporation income tax credit law, which provided the credit was available on the long-form but not available on the short-form.

Senate Bill No. 2297 removes an internal reference to a repealed chapter of law.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 11
Counties
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 11. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

Senate Bill No. 2359 removes the requirement that meetings of boards of county commissioners be held at the county courthouse at statutorily specified times and allows a board of county commissioners to meet at the times and places designated by the board as established by resolution or ordinance. The bill changes the membership of a board of county park commissioners from the members of the board of county commissioners and two residents of the county appointed by the board of county commissioners to a five-member to seven-member board appointed by the board of county commissioners which must include two members of the county commission and at least two residents of the county. The bill authorizes the board of county park commissioners to appoint an official other than the county auditor to serve as the secretary of the board. The bill reduces the quorum requirement of a board of county park commissioners from two-thirds to one-half of the members of the board. The bill was declared to be an emergency measure and became effective upon filing with the Secretary of State on May 1, 2009.

Senate Bill No. 2168 revises several provisions relating to the duties and responsibilities of county coroners. The bill extends the term of an appointment to the position of county coroner from two years to five years. The bill provides that a physician, an advanced practice registered nurse, a registered nurse, a physician assistant, or any other individual determined by the State Forensic Examiner to be qualified may be eligible to appointment as a coroner. The bill provides that a report of death, an autopsy report, and any working papers, notes, images, pictures, photographs, or other recordings of a coroner are confidential. The bill authorizes the State Forensic Examiner to order an autopsy, exercise all powers of a coroner, and take jurisdiction over a deceased human body. The bill requires an individual appointed to the position of State Forensic Examiner to be a physician who is board-certified or board-eligible in forensic pathology, licensed in North Dakota, and in good standing in the profession. The bill provides that an autopsy report of the State Forensic Examiner and any working papers and notes relating to an autopsy report are confidential, but a report of death is a public record. The bill authorizes the State Forensic Examiner to disclose a copy of an autopsy report under certain special circumstances.

House Bill No. 1271 establishes guidelines for the redistricting of county commissioner districts. The bill provides that a county redistricting board must first attempt to make districts contiguous following township lines and substantially equal in population and, if that is not practical, then must attempt to make districts as nearly equal in population as is practicable. The bill adds the county auditor or other county election official as an ex officio, nonvoting member on a county redistricting board.

Senate Bill No. 2243 authorizes a county to accept payments due to the county by wire transfer, electronic transfer, automated clearinghouse, or through a nationally recognized credit card or debit card. The bill also authorizes a county to add to the payment as a service charge a reasonable fee not exceeding the discount, exchange fee, or other fee incurred by the county in accepting the payment.

House Bill No. 1107 requires a home rule county to pay for an attorney and expenses necessary for the adequate defense of an indigent person prosecuted for a violation of a home rule county ordinance.

House Bill No. 1257 prohibits a home rule county from using home rule authority to impose higher or lower property tax rates for certain properties and requires all taxable property to be assessed at the same rate, unless otherwise provided by law. The bill is effective for taxable years beginning after December 31, 2008.

House Bill No. 1301 requires a party that presents an affidavit of affixation to real property of a manufactured home to the county recorder for conversion of the manufactured home to real property to also present a statement that the party has filed with the State Board of Equalization a report of the full consideration paid for the manufactured home before the affixation to the real property, a statement that the party has filed with the recorder a report of the full consideration paid for the manufactured home before the affixation, or a statement of the full consideration paid by the party for the manufactured home before the affixation.

House Bill No. 1324 removes a statutory reference to the optional long-form income tax return, which the bill eliminates.

TITLE 12
Corrections, Parole, and Probation
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 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.

The legislation relating to corrections, parole, and probation may be classified in these subject areas: correctional facilities, Department of Corrections and Rehabilitation, criminal history record checks, missing persons, and miscellaneous.

CORRECTIONAL FACILITIES

House Bill No. 1223 provides that for those offenders who are sentenced to a term of imprisonment in a county jail or regional correctional facility, the court may commit the offender to the legal and physical custody of the administrator of the jail or correctional facility. The bill provides that it is the responsibility of the administrator to determine whether the use of electronic home detention or global positioning system monitoring is appropriate for that offender.

House Bill No. 1237 provides that the administrator of a correctional facility may allow a qualified correctional officer to carry a weapon, including a firearm, during the transport of another governmental agency's prisoner if the correctional facility has a contract with the agency to transport the agency's prisoners and that contract requires the officer who does the transport to be armed. The bill requires the administrator of the correctional facility to adopt a policy that establishes the qualifications and training an officer must meet to carry a weapon. This bill became effective on April 22, 2009.

House Bill No. 1238 authorizes a governing body of a correctional facility to contract with a state or a regional correctional center, county, or city of another state for the confinement of lawfully committed state, county, or city inmates from the other state. The bill provides that there are certain inmates a correctional center may not accept, including an inmate with a history of escape or attempted escape from official detention; an inmate with a history of institutional violence against staff or other inmates; and an inmate who has been convicted of a crime of violence, including kidnapping, aggravated assault, and certain sexual offenses. This bill became effective on April 22, 2009.

Senate Bill No. 2114 makes it is a Class C felony for an inmate in a correctional facility to willfully manufacture, possess, or use a wireless electronic communication device in a correctional facility, except for law enforcement purposes. The bill also makes it a Class C felony for any person to willfully deliver a wireless electronic communication device to an inmate in a correctional facility or to any person for redelivery to an inmate in a correctional facility, or to allow an inmate to possess or use a wireless electronic communication device in a correctional facility, except for law enforcement purposes. The bill provides that an electronic communication device includes a cellular telephone, personal digital assistant, pager, mobile broadband card, Internet router, digital camera, two-way radio, modem, or any other electronic device capable of wireless transmission, reception, interception, or storage of data. This bill became effective on April 29, 2009.

DEPARTMENT OF CORRECTIONS AND REHABILITATION

House Bill No. 1089 removes references to the superintendent of the Youth Correctional Center. The bill provides that the director of the Division of Juvenile Services is the administrator of the Youth Correctional Center.

Senate Bill No. 2116 makes it a Class C felony for an inmate of the State Penitentiary to willfully manufacture, possess, or use a wireless electronic communication device in a correctional facility, except for law enforcement purposes. The bill also makes it a Class C felony for any person to willfully deliver a wireless electronic communication device to an inmate in the Penitentiary or to any person for redelivery to an inmate in the Penitentiary, or to allow an inmate to possess or use a wireless electronic communication device in the Penitentiary, except for law enforcement purposes. The bill provides that an electronic communication device includes a cellular telephone; personal digital assistant; pager; mobile broadband card; Internet router; digital camera; two-way radio; modem; or any other electronic device capable of wireless transmission, reception,

interception, or storage of data. The bill also provides that the medical, psychological, and treatment records of the Department of Corrections and Rehabilitation relating to individuals in the custody or under the supervision of the department may be disclosed for the purpose of conducting research and educational activities. This bill became effective on April 29, 2009.

Senate Bill No. 2122 replaces references to the duties and powers of the various divisions of the Department of Corrections and Rehabilitation with a reference to the duties and powers of the Department of Corrections and Rehabilitation.

Senate Bill No. 2134 replaces references to the authority of the warden, with respect to prison industries, with references to the authority of the director of the Department of Corrections and Rehabilitation. The bill also authorizes prison industries to sell commissary items and prison industries-made clothing to inmates.

CRIMINAL HISTORY RECORD CHECKS

House Bill No. 1084 authorizes the Tax Commissioner to request a criminal history record check for a final applicant for employment with the Tax Commissioner's office.

House Bill No. 1311 defines a criminal history record as the compilation of criminal history record information of a person reported to the Bureau of Criminal Investigation in accordance with Chapter 12-60. The bill also provides that the restrictions on the dissemination of criminal history record information do not prohibit the disclosure of a criminal history record by the requester or other persons after the dissemination of the record by the bureau to the requester.

Senate Bill No. 2152 authorizes the North Dakota Marriage and Family Therapist Licensure Board to request criminal history record checks for applicants, licensees, or investigations under Chapter 43-53.

Senate Bill No. 2162 authorizes the Department of Human Services to obtain a criminal history record check for employees of the department upon hiring, providers licensed by the department as foster care homes, and applicants and providers of early childhood services and the employees of those applicants and providers.

MISSING PERSONS

House Bill No. 1040 establishes a uniform procedure for locating and identifying missing persons and human remains. The bill also directs the Attorney General to develop a procedures manual relating to the investigation of missing person cases which is to be distributed to law enforcement agencies.

Senate Bill No. 2161 requires the Bureau of Criminal Investigation to establish and maintain a statewide file system for the purpose of allowing for an immediate law enforcement response to reports of lost, missing, or runaway children. Under the bill, the bureau is also required to implement a data exchange system; establish contacts and exchange information regarding lost, missing, or runaway children with the National Crime Information Center; and compile and maintain a historical data repository relating to lost, missing, or runaway children.

MISCELLANEOUS

House Bill No. 1127 provides that county and city officials have a duty to provide crime statistics to the Attorney General within 30 days of the Attorney General's request.

House Bill No. 1306 authorizes the Parole Board to participate in the 24/7 sobriety program as an intermediate sanction or condition of parole.

House Bill No. 1416 authorizes the Attorney General to issue an administrative subpoena that compels the recipient to provide records or information to an agent of the Bureau of Criminal Investigation in any criminal matter being investigated by the bureau.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 12.1
Criminal Code
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 12.1. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

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

NEW OFFENSES OR CHANGES IN PENALTIES

House Bill No. 1186 makes it a Class A misdemeanor to surreptitiously create or willfully possess a sexually expressive image that was surreptitiously created or to distribute or publish a sexually expressive image with the intent to cause emotional harm or humiliation to an individual depicted in the sexually expressive image. The bill makes it a Class B misdemeanor to acquire and knowingly distribute a sexually expressive image that was created without the consent of the subject of the image.

House Bill No. 1244 makes it a Class A misdemeanor if a person knowingly possesses, distributes, or assists in the use of a device, chemical, or real or artificial urine advertised or intended to be used to alter the outcome of a urine test.

House Bill No. 1365 makes it a Class B misdemeanor for a recycler, scrap metal dealer, or scrapyard operator to purchase a metal beer keg from anyone other than a brewer if the keg is clearly marked as the property of a brewery manufacturer or the keg's identification markings have been made illegible.

Senate Bill No. 2209 provides that a person is guilty of human trafficking if the person benefits financially or receives anything of value from knowing participation in human trafficking or the person promotes, recruits, entices, harbors, transports, provides, or obtains another person knowing that the person is subject to human trafficking. The bill provides that the crime of human trafficking is a Class A felony unless the person subject to human trafficking is under age 18 in which case the offense is a Class AA felony.

Senate Bill No. 2210 increases the penalty for willfully and unjustifiably killing or injuring a law enforcement support animal from a Class A misdemeanor to a Class C felony. The bill also provides that a person is guilty of a Class A misdemeanor and is subject to a civil penalty of up to $5,000 if that person willfully harasses, taunts, or provokes a law enforcement support animal or otherwise interferes with the law enforcement support animal while the animal is working or while the animal is working with its handler. The bill changes the term "certified law enforcement support dog" to "law enforcement support animal."

Senate Bill No. 2293 provides that it is a Class C felony for an individual to assault an employee of the State Hospital who is acting in the course and scope of employment and the actor is committed to or detained at the State Hospital under Chapter 25-03.3.

Senate Bill No. 2344 provides that the crime of indecent exposure does not include the act of a woman discreetly breastfeeding her child.

SEX OFFENSES AND OFFENDERS

House Bill No. 1272 provides that a person who engages in sexual contact with another is guilty of an offense if that person knows or has reasonable cause to believe the victim is unaware that sexual contact is being committed on the victim. The bill also provides that a person is guilty of a Class B misdemeanor if the person compels another person to submit to any threat or coercion that would render the victim reasonably incapable of resisting. The bill provides that coercion means to exploit fear or anxiety through intimidation, compulsion, domination, or control with the intent to compel conduct or compliance.

House Bill No. 1334 provides that, for the purpose of sexual offender registration, a change in school or employment address includes the termination of school or employment. This section provides that the registrant

is required to inform the law enforcement agency with whom the registrant last registered in writing within five days of the termination.

House Bill No. 1416 includes the conspiracy to commit an offense in the definition of sexual offender. The bill also requires the clerk of district court to forward all warrants issued for a violation of Section 12.1-32-15 to the county sheriff who is required to enter the warrants in the National Crime Information Center wanted person file.

Senate Bill No. 2216 provides that when a child forensic medical examination is performed on an alleged child victim of criminal sexual conduct, the costs incurred by a health care facility or health care professional for performing the examination may not be charged, either directly or through a third-party payer, to the alleged child victim or the child's parent, guardian, or custodian. The bill appropriates $410,000 to the Attorney General for the purpose of reimbursing health care facilities and health care professionals for the cost of the examinations. The bill became effective on April 23, 2009.

SENTENCING

House Bill No. 1306 authorizes a court to order, as a condition of probation, the participation of the defendant in the 24/7 sobriety program.

Senate Bill No. 2115 provides that a person who is convicted of a felony and sentenced to imprisonment for not more than one year is deemed to have been convicted of a misdemeanor upon successful completion of the term of imprisonment and a term of probation imposed as part of the sentence.

MISCELLANEOUS

House Bill No. 1041 makes the statutory changes necessary for the implementation of a statewide automated victim information and notification (SAVIN) system. The bill allows the victim and other concerned citizens to register with the SAVIN system to receive various notifications. The bill also provides that some of the notification duties that are currently the responsibility of certain entities, including prosecuting attorneys, courts, or custodial authorities, are automated under the SAVIN system.

House Bill No. 1042, which relates to technical corrections to the Century Code, corrects an inaccurate cross-reference to a section of the Constitution of North Dakota.

House Bill No. 1107 relates to the reimbursement of indigent defense costs by the defendant. The bill provides that unless the court finds that there is no likelihood that the defendant is or will be able to pay attorney's fees and expenses, the court is required to notify the defendant, the defendant's probation office, and the prosecuting attorney of the presumed amount of costs and expenses to be reimbursed. The bill also provides that if the defendant or prosecutor requests a hearing regarding the reimbursement, the court is required to schedule a hearing at which the actual amount of attorney's fees and expenses must be shown.

House Bill No. 1288 changes the caption of Section 12.1-08-11 from "Fleeing a peace officer" to "Refusing to halt."

House Bill No. 1336 relocates the language relating to a court order prohibiting contact from Section 14-07.1-13, which relates to domestic violence and which is repealed in this bill, to Chapter 12.1-31.2, which relates to disorderly conduct restraining orders.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 13
Debtor and Creditor Relationships
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 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.

Senate Bill No. 2105 extends the authority of the Commissioner of Financial Institutions to impose civil money damages to include the willful violation of a written agreement by a money broker, collection agency, deferred presentment service provider, and money transmitter.

Senate Bill No. 2160, as part of the bill implementing regulation of residential mortgage brokers under the federal S.A.F.E. Act, repeals the consumer finance act; creates a new chapter to license residential mortgage loan originators in order to protect consumers seeking mortgage loans and to ensure the mortgage lending industry is operating without unfair, deceptive, and fraudulent practices; and modifies the law relating to money brokers, including increasing the annual license fee from $300 to $400, changing the licensure year to follow the calendar year, and setting terms and maximum charges for loans not in excess of $1,000.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 14
Domestic Relations and Persons
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 14. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

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

DOMESTIC VIOLENCE

House Bill No. 1291 provides that if an individual charged with or arrested for a crime involving domestic violence is released from custody, a court may require electronic home detention or global positioning system monitoring be used for the individual as a condition of release.

House Bill No. 1336 repeals Section 14-07.1-13, which relates to an order prohibiting contact, and relocates the language of this repealed section to a new section in Chapter 12.1-31.2, which relates to disorderly conduct restraining orders.

DISCRIMINATION

Senate Bill No. 2143 provides that a person whose collective bargaining agreement, employment contract, or public employee rights provides a process through which recourse of discriminatory acts is available must exercise that process to completion before commencing an action under Section 14-02.4-19.

CHILD SUPPORT

House Bill No. 1175 amends and updates various provisions with respect to child support enforcement. The bill also provides that if an obligee is deceased, the order in which any past-due child support that is received is disbursed must include a refund to the obligor if the court determines that the past-due child support cannot be disbursed to those parties that precede the obligor in the order of disbursement under Section 14-09-25(9).

House Bill No. 1329 provides that the child support guidelines may not take into consideration cases of atypical overtime wages or nonrecurring bonuses over which the obligor does not have significant influence or control. The bill also provides that if an income payer makes an error in the remittal information the income payer provides to the state disbursement unit, the income payer has not complied with Section 14-09-09.3 and is responsible for the error but has a cause of action for reimbursement against any person that receives funds from the disbursement unit as a result of the error and refuses to return the funds upon request.

Senate Bill No. 2072 codifies the amendments to the Uniform Interstate Family Support Act approved by the National Conference of Commissioners on Uniform State Laws in 2008. The amendments modify the current version of the Act's international provisions to comport with the obligations of the United States under the 2000 Hague Convention.

MARRIAGE AND DIVORCE

House Bill No. 1252 authorizes either party to a marriage to change the middle name by which that individual wishes to be known after the solemnization of the marriage by entering the new middle name in the space provided on the marriage license application. The bill also provides that if an individual elects to change that individual's middle name, the middle name entry on the marriage license application or marriage license must consist of the premarriage surname or former surname of that individual.

PARENT AND CHILD

Senate Bill No. 2042 provides for changes in the terminology used in family law; requires that in any proceeding to establish or modify a judgment providing for parenting time with a child, a parenting plan is required to be developed and filed with the court; adds several best interest factors; clarifies several current best interest factors; and establishes a parenting coordinator program.

MINORS

Senate Bill No. 2157 authorizes an individual who is at least 16 years of age to donate blood on a voluntary and noncompensatory basis without obtaining the consent of the individual's parent or guardian.

Senate Bill No. 2394 authorizes a physician or other health care provider to provide to a minor pregnancy testing, pain management related to pregnancy, and prenatal care in the first trimester or a single prenatal visit in the second or third trimester of pregnancy without the consent of a parent or guardian. The bill also provides that a physician or other health care professional may inform the parent or guardian of any pregnancy care services given or needed if, in the judgment of the physician or other health care provider, failure to inform the parent or guardian would seriously jeopardize the health of the minor or her unborn child, surgery or hospitalization is needed, or informing the parent or guardian would benefit the health of the minor or her unborn child.

ABORTION

House Bill No. 1371 provides that an abortion facility may not perform an abortion on a woman without first offering the woman an opportunity to receive and view an active ultrasound of the fetus. The bill provides that the opportunity to receive and view an ultrasound must occur at least 24 hours before the abortion is scheduled to be performed. The bill also requires the abortion facilities to keep records of the number of women who availed themselves of the opportunity to receive and view an ultrasound image and the number who did not and of those numbers, the number who went on to obtain the abortion.

House Bill No. 1445 requires that as a part of the informed consent requirements before the performance of an abortion, the physician must inform the woman that the abortion will terminate the life of a whole, separate, unique, living human being.

Senate Bill No. 2265 requires an abortion facility to display signs in locations that ensure maximum visibility to women at the time a woman gives consent to an abortion which states that the woman cannot be forced to have an abortion and that it is against the law for anyone to force a woman to have an abortion.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 15
Education
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 15. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

HIGHER EDUCATION

Senate Bill No. 2003 appropriates $794,860,507 to the North Dakota University System. Of that amount, $593,296,143 is from the general fund. The bill also limits tuition increases to no more than four percent, unless the State Board of Higher Education receives Budget Section approval.

Senate Bill No. 2020 appropriates $211,808,429 to the North Dakota State University Extension Service, the Northern Crops Institute, the Upper Great Plains Transportation Institute, the Main Research Center, branch research centers, and the Agronomy Seed Farm. Of that amount, $114,444,662 is from the general fund.

Senate Bill No. 2038 extends by two years the effective date of several North Dakota Century Code sections pertaining to the acceptance of gifts and bequests by the State Board of Higher Education and block grants for the University System.

House Bill No. 1386 authorizes the Veterinary Diagnostic Laboratory at North Dakota State University to conduct rabies tests, as required by Section 23-36-03.

Senate Bill No. 2018 limits an institution of higher education under the control of the State Board of Higher Education from submitting more than two applications per campus for each round of centers of excellence funding.

Senate Bill No. 2266 directs that the University of North Dakota's Nursing Education Consortium advise University of North Dakota officials regarding strategies to address common concerns in nursing education which produce obstacles in meeting the state's current and future nursing needs, the specific needs of rural communities, and the development of a strategic plan for the ongoing activities of the simulation laboratory initiative. The bill also appropriates $500,000 from funds made available to the Governor under the federal American Recovery and Reinvestment Act of 2009 to the University of North Dakota for the purpose of funding the costs of a simulation laboratory initiative.

UNIVERSITY OF NORTH DAKOTA SCHOOL OF MEDICINE AND HEALTH SCIENCES

Senate Bill No. 2079 provides that the primary purpose of the University of North Dakota School of Medicine and Health Sciences is to educate physicians and other health professionals and to enhance the quality of life in North Dakota. Additional purposes include the discovery of knowledge that benefits the people of this state and enhances the quality of their lives. The bill also replaces references to the "North Dakota State Medical Center" with references to the "University of North Dakota School of Medicine and Health Sciences."

Senate Bill No. 2077 makes loans from the School of Medicine and Health Sciences loan fund available to all eligible medical students enrolled at the University of North Dakota School of Medicine and Health Sciences and to all eligible dental students enrolled at an accredited school of dentistry, not just to upperclassmen. The bill also raises the loan cap from $6,000 to $10,000 per year.

Senate Bill No. 2081 enlarges the University of North Dakota School of Medicine and Health Sciences Advisory Council by including a representative of the University of North Dakota Center for Rural Health and three additional members selected by the dean of the University of North Dakota School of Medicine and Health Sciences. The council is charged with making recommendations regarding the strategic plan, programs, and facilities of the University of North Dakota School of Medicine and Health Sciences.

TUITION AND FINANCIAL ASSISTANCE

Senate Bill No. 2082 extends resident student tuition to the child or stepchild of a veteran who was killed in action or died from wounds or other service-connected causes, was totally disabled as a result of service-connected causes, died from service-connected disabilities, was a prisoner of war, or was declared missing in action, provided

the child's other parent establishes residency in this state and maintains that residency for a period of five years immediately preceding the child's or stepchild's enrollment at an institution under the control of the State Board of Higher Education.

Senate Bill No. 2166 extends the student financial assistance program to students enrolled in for-profit as well as nonprofit private postsecondary institutions located in this state and offering programs of instruction at least equal in length to two academic years.

UNIVERSITY AND SCHOOL LANDS

Senate Bill No. 2013 appropriates $13,792,561 from special funds to the commissioner of university and school lands and directs the distribution of $82,060,000 from the state's permanent funds to the common schools and various state institutions.

Senate Bill No. 2085 updates various statutory sections to align with the amendment of Article IX, Sections 1 and 2, of the Constitution of North Dakota which required that the state's permanent trust funds be managed to preserve purchasing power and to provide a stable distribution to the beneficiaries.

House Bill No. 1139 authorizes the Board of University and School Lands to request that the State Geologist determine the quantity and description of all lands under the board's control on which coal exists.

CAREER AND TECHNICAL EDUCATION

Senate Bill No. 2019 appropriates $25,891,008 from the general fund to the State Board for Career and Technical Education and directs that the State Board of Higher Education study the status of the training activities provided by the four institutions of higher education assigned primary responsibility for workforce training in the state.

House Bill No. 1400 establishes the funding formula for kindergarten through grade 12 education. The bill also directs the State Board for Career and Technical Education to develop a program leading to a certificate in career development facilitation. Certificate holders are to be known as "career advisors."

House Bill No. 1475 appropriates $50,000 to the Department of Career and Technical Education for the purpose of providing additional funding for innovation grants.

TEACHERS' FUND FOR RETIREMENT

Senate Bill No. 2277 provides that if an individual retired before January 1, 2009, and receives benefits from the Teachers' Fund for Retirement, that individual is entitled to receive a supplemental payment equal to an amount determined by taking $20 multiplied by the member's number of years of service credit plus $15 multiplied by the number of years since the member's retirement as of January 1, 2009. The supplemental payment may not exceed the greater of 10 percent of the member's annual annuity or $750.

House Bill No. 1080 provides that Teachers' Fund for Retirement benefits may not exceed the maximum benefits specified under section 415 of the Internal Revenue Code, as of August 1, 2009, for governmental plans. The bill also allows for the disclosure of confidential retirement benefit records to the member's spouse or former spouse, that individual's legal representative, and the judge presiding over a dissolution proceeding; beneficiaries designated by a participating member or a former participating member to receive benefits after the member's death; the general public if the board has been unable to locate a member for more than two years; any person if the disclosure is necessary for treatment, operational, or payment purposes; and to a person if the information relates to an employer service purchase.

House Bill No. 1360 provides that individuals employed by regional education associations have the same statutory rights as those accorded to individuals employed by school districts. The bill specifically adds regional education associations to the sections governing the Teachers' Fund for Retirement.

INDIAN EDUCATION

House Bill No. 1394 appropriates $700,000 from the permanent oil tax trust fund to the State Board of Higher Education for the purpose of providing to tribally controlled community colleges $5,304 per full-time equivalent non-beneficiary student. A nonbeneficiary student is a student who is a resident of this state, is enrolled in a tribally controlled community college, and is not an enrolled member of a federally recognized Indian tribe nor a biological child of a living or deceased member of an Indian tribe.

House Bill No. 1566 directs the commissioner of higher education to conduct an interim study of the interplay between the University System and tribally controlled community colleges.

House Bill No. 1399 creates the American Indian Language Preservation Committee and directs that it develop a process for the orderly preservation of American Indian languages. The bill also appropriates $18,000 from funds available to the Governor under the American Recovery and Reinvestment Act of 2009 for the purpose of providing the committee with 3-to-1 matching funds.

Senate Bill No. 2080 prohibits the operation in this state of an accrediting entity that is not recognized by the United States Department of Education or the State Board for Career and Technical Education. It also exempts American Indian colleges operating in this state from governance by the State Board for Career and Technical Education.

MISCELLANEOUS

Senate Bill No. 2389 changes the name of the School of Forestry at Bottineau to Dakota College at Bottineau.

House Bill No. 1436 changes statutory references from the Legislative Council to Legislative Management.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 15.1
Education
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 15.1. Bills primarily affecting other titles also affect this title and relevant provisions of those bills are summarized in this memorandum.

EDUCATION FINANCE

House Bill No. 1400 increases the length of the school calendar; requires career advisors, counselors, and student performance strategists; requires professional development plans; creates a national board certification fund; establishes high school graduation requirements; provides scholarships; requires various assessments; repeals the North Dakota Commission on Education Improvement as of December 31, 2010; creates the North Dakota Early Childhood Education Council; provides for the distribution of grants from federal and state sources; and provides approximately $110 million in new state funding for kindergarten through grade 12 education.

House Bill No. 1013 provides a state general fund appropriation of $811,480,590 for the Department of Public Instruction and a contingent appropriation of $5,000,000 for supplemental transportation payments. The bill also raises the salary of the Superintendent of Public Instruction from $90,587 to $95,116 during the first year of the biennium and $99,872 thereafter.

Senate Bill No. 2199 appropriates $295 million for mill levy reduction grants to school districts and repeals a section calling for a reduction in a school district's state aid if its general fund levy is less than 155 mills.

Senate Bill No. 2212 appropriates $40,000 from available federal stimulus funds to the Superintendent of Public Instruction for the purpose of providing an English language learner grant to a regional education association. The bill also requires the Superintendent to establish caseload criteria for English language learner teachers, but provides that deviation from the criteria may not affect accreditation or funding.

SCHOOL DISTRICT ELECTIONS

Senate Bill No. 2324 requires that ballots for school district elections be printed at least 40 days before the election. Current law requires only 20 days.

CORPORAL PUNISHMENT

Senate Bill No. 2289 prohibits a school from defining what constitutes corporal punishment in a broader fashion than that set forth in the North Dakota Century Code and it requires each school board to ensure that its policies, procedures, and guidelines are identical for all similarly graded schools in the district.

DISCHARGE OF CERTAIN EMPLOYEES

Senate Bill No. 2357 provides that if a teacher, a principal, or an assistant or associate superintendent is to be discharged, an administrative law judge must preside over the discharge hearing. At the conclusion of the hearing, the school board is to make a determination regarding the discharge. A determination by the board is appealable to the district court.

SCHOOL ATTENDANCE AND PARTICIPATION

House Bill No. 1378 requires that, beginning with the 2010-11 school year, children must have reached the age of five for admission to kindergarten and the age of six for admission to the first grade by August 1, rather than September 1, of the year of enrollment.

Senate Bill No. 2217 provides that if a person fails to ensure that a child is in attendance at school, as required by the compulsory attendance laws, that person is guilty of an infraction for a first offense and a class B misdemeanor for a subsequent offense. The bill also requires that the Superintendent of Public Instruction appoint an Advisory Committee on Truancy to review existing school district policies and responses to truancy and to explore counseling and intervention options and alternative learning environments, the effectiveness of imposing punitive measures on truant students and their parents, and any other solutions designed to decrease incidences of truancy.

House Bill No. 1273 allows students in grade 10 as well as students in grades 11 and 12 to participate in the postsecondary enrollment options program.

HOME EDUCATION

House Bill No. 1171 allows a parent who has only a high school diploma or a general educational development diploma to supervise home education.

MISCELLANEOUS

House Bill No. 1360 provides that individuals employed by regional education associations have the same statutory rights as those accorded to individuals employed by school districts.

House Bill No. 1309 calls for a study of the Interstate Compact on Educational Opportunity for Military Children, with a view to determining whether North Dakota should become a participating member of the compact.

House Bill No. 1042 repeals obsolete provisions, including one directing the Education Standards and Practices Board to enter discussions with officials from bordering states regarding licensure and credentialing reciprocity.

Senate Bill No. 2003 is the appropriation for the North Dakota University System. The bill also requires that when the State Board of Public School Education, the State Board of Higher Education, and the Education Standards and Practices Board hold their statutorily required joint meetings, they address the establishment of high standards and expectations of students at all levels of the education continuum, ensure that all students have access to challenging curricula, ensure that the individuals instructing students at all levels of the education continuum are highly qualified and capable, and cooperate in the provision of professional growth and development opportunities for individuals instructing students at all levels of the education continuum.

Senate Bill No. 2021 is the appropriation bill for the Information Technology Department. The bill directes the Information Technology Department to maintain a statewide longitudinal data system and it adds to the Statewide Longitudinal Data System Committee the director of the North Dakota Educational Technology Council, the director of the North Dakota Council of Educational Leaders, the director of the North Dakota Workforce Development Council, and two members of the Legislative Assembly.

House Bill No. 1436 changes statutory references from the Legislative Council to Legislative Management.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 16.1
Elections
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 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.

Senate Bill No. 2324 requires a school district business manager to have election ballots prepared at least 40 days before an election. The bill prohibits a qualified elector from authorizing an attorney in fact, guardian, or other individual to apply for any ballot or to vote in any election on behalf of or in place of the qualified elector. The bill prohibits an individual from removing the individual's name from an initiative, referendum, or recall petition. The bill sets timeframes for the calling of and providing notice of a recall election and provides that an official may not be recalled if the recall election would be held during the same year in which the official's office would be included on the ballot. The bill provides that the costs of annual software licenses, hosting costs for the software in the State Data Center, costs of necessary enhancements to software, and the costs for implementing the duties and responsibilities of the Secretary of State's office relating to the central voter file are the responsibility of the Secretary of State. The bill eliminates the requirement that each county auditor mail to a random sampling of individuals contained in the central voter file a notice stating the individual's name and address. The bill eliminates or reduces various timelines for reporting changes and posting information in the central voter file. The bill changes references and procedures relating to political party organization to account for organization in nonpresidential general election years. The bill provides that for special elections involving no-party offices, the appropriate election officer must appoint the election judges, with the approval of the applicable governing body. The bill increases the number of poll challengers allowed from each political party from one to three. The bill requires that an affidavit signed by an individual who has not provided appropriate identification to vote must include the birth date of the affiant; the identification number and state of any state-issued identification of the affiant, if available; and a notice indicating that the affidavit is not an open record. The bill prohibits a filing officer from including a candidate's name on the ballot if an error is discovered on the statement of interests filed by the candidate and the candidate is unable to or refuses to make the necessary correction before the 60th day before the election. The bill requires a measure committee or a corporation making a direct expenditure either for or against a measure to disclose on a political advertisement the name of the sponsor of the advertisement. The bill provides that spoiled ballots must be returned to the county recorder. The bill prohibits an individual who served on an election board during an election from serving as a political party representative on the canvassing board for the same election and prohibits any individual who has anything of value bet or wagered on the result of an election from serving on a county or the state canvassing board. The bill also requires a member of a county or the state canvassing board to be removed from any portion of the canvass for which that member has a family member as a candidate for an office. The bill includes references to presidential, judicial district, and multicounty district offices within provisions relating to election recount procedures.

Senate Bill No. 2319 provides that if an election official personally distributes and collects an absent voter's ballot outside the election official's office, appointed election judges from an election board must accompany the election official along with the ballot to and from the voter's location and be present while the voter is marking the ballot. The bill removes the requirement that a voter voting by absentee ballot include the voter's precinct or voting location on the ballot and includes on an absent voter's application form a space for the voter to indicate the voter's status as a citizen living outside the United States, a uniformed service member living away from the voter's North Dakota residence, or a family member of a uniformed service member living away from the voter's North Dakota residence. The bill allows an applicant for an absentee ballot to use the applicant's signature stamp if the applicant is unable to sign the applicant's name on the application and the voter's affidavit. The bill requires an election official to provide a voter with a secrecy envelope along with an absentee ballot. The bill allows election officials to begin processing absentee and vote by mail ballots on the day before the election, but prohibits counting of the votes before the polls have closed. The bill allows a county to provide more than one early voting location. The bill changes timelines for distribution of mail ballots to allow distribution by the county auditor no sooner than the 50th day before the election and no later than the 40th day before the election. With respect to obtaining a replacement mail ballot, the bill removes the requirement that an elector sign a sworn statement that the elector's ballot was destroyed, spoiled, lost, or not received. The bill allows a candidate for President of the United States to begin gathering signatures for the certificate of nomination on the first day of January in a presidential election year and requires that the petition be submitted to the Secretary of State before 4:00 p.m. on the 60th day before the general election. The bill revises the affidavit form for an applicant for placement on the general election ballot as

an independent candidate and includes on the affidavit a statement that the candidate may use a nickname on the ballot but may not use a title or campaign slogan. The bill extends by 60 days the time period during which an independent candidate is allowed to circulate petitions to place the individual's name on the ballot.

House Bill No. 1490 includes within the definition of an expenditure for the purposes of campaign finance regulation expenditures for the purpose of influencing the passage or defeat of a measure. The bill includes within the filing requirements for judicial candidates and candidate committees a requirement that the statement include the gross total of contributions received in excess of $200.

Senate Bill No. 2307 repeals the statutory authorization for political parties to hold presidential preference caucuses.

House Bill No. 1452 establishes a procedure to hold a special election to fill a vacancy in the United States House of Representatives due to a catastrophic circumstance in which 100 or more representatives across the United States are no longer able to serve and the next regular or special election is more than 75 days in the future.

House Bill No. 1343 requires a board of county commissioners that determines to hold an election by mail ballot to have one or more polling places in the county open on the day of the election.

House Bill No. 1461 defines "election day" with respect to polling places at early voting precincts as any time an early voting precinct is open.

House Bill No. 1002 provides that any interest earnings on the election fund must be used for the exclusive purpose of carrying out activities of the Help America Vote Act of 2002.

House Bill No. 1042 clarifies that on an initiative or referendum petition, material that is not underscored or overstruck is existing law that is not being changed.

House Bill No. 1436 changes a reference from the Legislative Council to the Legislative Management to account for the changing of the name of the 17-member Legislative Council to Legislative Management.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 17
Energy
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 17. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

Senate Bill No. 2245 changes the time at which a wind option agreement, wind easement, or wind energy lease terminates due to inactivity from not any development within five years to if within five years a certificate of site compatibility or conditional use permit has not been issued, if required, and if within five years a transmission interconnection request is in process and not under suspension.

Senate Bill No. 2291 allows a livestock operation that has reached the $250,000 limit under the biofuels partnership in assisting community expansion fund to be eligible to receive another $250,000 as an additional interest rate buydown for the purchase or installation of a biodigester system.

Senate Bill No. 2297 changes cross-references for the purposes of the line mile tax in lieu of property tax.

Senate Bill No. 2376 allows the North Dakota Transmission Authority to replenish a reserve fund for a portion of bonds issued by the authority.

House Bill No. 1509 requires a wind easement and a wind energy lease to contain certain warnings; to allow time for the document to be reviewed and discussed with an attorney or other landowners; to prohibit a property owner from being liable for property taxes associated with a wind energy facility; to prohibit a property owner for being liable for damages caused by the wind energy facility; to prohibit making the property owner liable for a violation of law or regulation; to allow the property owner to terminate the agreement if the wind energy facility has not operated for a period of at least three years; to state circumstances that will allow the developer, owner, and operator of the wind energy facility to withhold payments; to require the owner of a wind energy facility to carry general liability insurance; and to allow for judicial relief. In addition, the bill provides for a study of wind easements and wind energy leases.

House Bill No. 1322 creates an Energy Policy Commission chaired by the Commissioner of Commerce and composed of members of the energy industry to develop a comprehensive energy policy for the state.

Senate Bill No. 2228 requires the Department of Commerce to administer the biofuel blender pump incentive fund and use money in the fund to provide cost-share grants of up to $5,000 per pump for the installation of biofuel blender pumps to retailers who qualify and install pumps that dispense at retail a blend of gasoline and ethanol in a ratio selected by the purchaser and have at least four hoses that include a hose that dispenses E-10, a blend of at least E-20, and E-85 fuel.

Senate Bill No. 2350 creates the North Dakota Ethanol Council consisting of members appointed by a facility located in this state which produces more than 1 million gallons of agriculturally derived denatured ethanol for the purpose of expending money collected through an assessment at the rate of thirty-one hundredths of 1 percent per gallon imposed upon all ethanol produced and sold in this state for the purpose of funding research, education programs, promotion, and market development efforts and state, regional, national, and international entities that promote ethanol utilization. In addition, the bill provides for a refund of the assessment, a continuing appropriation for the assessment, and a penalty of a Class B misdemeanor for a person violating calculation and submission provisions of the assessment.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 18
Fires
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 18. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

House Bill No. 1070 creates an alternate firefighters relief association plan benefits program with the consent of the governing body of the city. The bill provides for a monthly service pension plan, disability pension, and pensions for survivors of deceased members.

House Bill No. 1124 adopts the Interstate Compact for the Prevention and Control of Wildland Fires to promote effective prevention and control of forest fires in the Great Plains region of the United States by the maintenance of adequate forest fire fighting services by member states and by providing reciprocal aid among the states that include South Dakota, North Dakota, Wyoming, Colorado, and any adjoining state of a current member state.

Senate Bill No. 2204 allows a rural fire department to form a firefighters relief association as is allowed for a city or rural fire protection district that has a fire department. The bill requires any firefighters relief association to have a plan approved by the Internal Revenue Service and to meet the requirements of the firefighters relief association bylaws.

House Bill No. 1368 creates reduced ignition propensity standards for cigarettes and penalties for wholesale and retail sale of cigarettes that violate the reduced propensity standards. The bill allows for the State Fire Marshal, Tax Commissioner, and Attorney General to enforce the standards and for monetary violations to be deposited in the fire prevention and public safety fund to be used by the State Fire Marshal to support fire safety and prevention programs. In addition, fees collected for testing cigarettes are to be used by the State Fire Marshal for the purpose of processing, testing, enforcement, and oversight of ignition propensity standards.

House Bill No. 1436 changes the name from the Legislative Council's Employee Benefits Programs Committee to Legislative Management's Employee Benefits Programs Committee.

House Bill No. 1015 changes the requirement for a payment from the Insurance Commissioner from the firefighters death benefit fund of $10,000 to a deceased firefighter's estate, if requested, from the governing body of a municipality having a paid fire department or the governing body of a city or rural fire protection district having no paid fire department to the survivor of a line of duty death upon request of a fire department or fire protection district. In addition, the bill defines line of duty death as a death that was due to an injury sustained while performing firefighter duties if the death occurred within 48 hours of participating in an emergency response or training event, and death from a heart attack or stroke is deemed to be a line of duty death if it occurs within 48 hours.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 19
Food, Drugs, Oils, and Compounds
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 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, oils, and compounds may be classified in these subject areas: pesticides, drugs, and fuel.

PESTICIDES

House Bill No. 1009 deposits the entire pesticide registration fee of $350 for each project into the environment and rangeland protection fund, instead of as previously required of having $50 of the fee deposited in the general fund.

DRUGS

Senate Bill No. 2218 creates a new chapter of law requiring a valid prescription to deliver, distribute, or dispense a controlled substance or specified drug and prohibits the delivery, distribution, or dispensing of a controlled substance that is a prescription drug by means of the Internet without a valid prescription. In addition, the bill creates a Class C felony for a person to willfully serve as an agent, intermediary, or other entity that causes the Internet to be used to bring together a buyer and seller to engage in delivery, distribution, or dispensing of a controlled substance in a manner not authorized by the chapter or to offer to fill or refill a prescription for a controlled substance based solely on a consumer's completion of an online medical questionnaire.

House Bill No. 1105 redefines and adds to the lists of Schedule II controlled substances that are opiums or opiates; adds to Schedule III controlled substances the anabolic steroids boldione, desoxymethyltestosterone, and 19-nor-4,9(10)-androstadienedione; and adds to Schedule IV controlled substances the depressant indiplon.

House Bill No. 1127 provides for duties of and protections offered by the Drug Enforcement Unit to be assumed by the Bureau of Criminal Investigation.

FUEL

Senate Bill No. 2228 adds alternative fuels to the fuels for which motor vehicle fuel or special fuels dealers must pay the Tax Commissioner an inspection fee, for which monthly reports must be sent to the Tax Commissioner, and for which the Tax Commissioner may require a bond.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 20.1
Game, Fish, Predators, and Boating
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 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 these subject areas: licenses and permits, Game and Fish Department, game and fish law violations, posting, and miscellaneous.

LICENSES AND PERMITS

Senate Bill No. 2165 requires the Game and Fish Department director to provide an online Internet hunter safety education program for individuals age 16 and over to complete the hunter safety education requirement. The bill revises the provisions governing youth deer hunting to provide that youth age 12 and 13 are entitled to receive a statewide white-tailed antlerless deer permit valid for only the youth deer season. The bill also establishes an apprentice hunter validation for individuals born after December 31, 1961, who are age 16 or older and who do not possess a hunter safety education course certificate of completion. The apprentice hunter validation entitles the holder to hunt small game and deer when accompanied by an adult licensed to hunt whose license was not obtained using an apprentice hunter validation. The apprentice hunter validation is for only one license year in a lifetime.

House Bill No. 1167 allows individuals who are under age 14 and who will be eligible to hunt on the opening date of the regular deer hunting season to hunt during the youth deer season.

House Bill No. 1567 provides that a guide or outfitter license is not required for a person that acts as a booking agent for a person that legally conducts business as an outfitter. The bill defines booking agent as a person who receives only a fee for referring or marketing the services of a legal outfitter in this state. The bill became effective April 9, 2009, and expires July 31, 2011.

House Bill No. 1240 provides that a landowner or lessee who has been convicted of a federal criminal game or fish violation within the last three years or whose license to hunt or fish is under suspension or revocation is not exempt from licensure as a guide or outfitter and is subject to a provision that an individual who has been convicted of a state or federal criminal game or fish violation in the last three years or whose license to hunt or fish is under suspension or revocation may not be licensed as a guide or outfitter.

GAME AND FISH DEPARTMENT

House Bill No. 1017 appropriates $59,463,938 to the Game and Fish Department. The bill requires the department to have land sought to be acquired appraised by a certified appraiser and prohibits the department from acquiring land for an amount that exceeds the appraised value except for parcels or tracts of land less than 40 acres which may be acquired for up to 200 percent of appraised value. The bill allows a professional gun dog trainer to apply to and obtain from the department a permit designating a specific training area not to exceed 40 acres as an exempt training area and train or run gun dogs in the exempt training area for a fee not to exceed $10 per year. The bill also requires the department to conduct a cost-benefit analysis for proposed rules.

GAME AND FISH LAW VIOLATIONS

House Bill No. 1188 makes it a Class C felony to commit five or more Title 20.1 Class A misdemeanor offenses within a two-year period; commit seven or more Title 20.1 misdemeanor offenses within a two-year period; furnish assistance, management, or supervision to an individual who commits or assists in the commission of seven or more Title 20.1 misdemeanor offenses within a two-year period; or commit a Title 20.1 misdemeanor offense after having been previously convicted of seven or more Title 20.1 misdemeanor offenses within a 10-year period.

House Bill No. 1217 makes it illegal to hunt on lands having unharvested oil seed crops defined as sunflower, safflower, rapeseed or canola, crambe, soybeans, or flax.

House Bill No. 1288 revises the uniform complaint and summons procedure to provide that if an individual fails to appear in court after promising to do so, the court may issue an arrest warrant and in addition to other conditions

order the department to suspend an individual's hunting, fishing, and trapping privileges until after the final disposition of the case. The bill becomes effective January 1, 2010.

House Bill No. 1175 provides that an individual's hunting, fishing, or trapping privileges may be suspended by the Department of Human Services for nonpayment of child support.

POSTING

House Bill No. 1239 provides that an individual authorized by the owner may post land. The bill provides that a person may not post property without the permission of the owner or tenant or an individual authorized by the owner and provides that even if the conduct of the owner, tenant, or individual authorized by the owner varies from the posting requirements, an individual may be found guilty of violating the posting statute if the owner, tenant, or individual authorized by the owner substantially complied with the posting requirements and notice against hunting or trespassing is clear from the circumstances.

MISCELLANEOUS

Senate Bill No. 2146 changes the date of the state gas tax payment to the Game and Fish Department from July 1 to any time in the month of July.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 21
Governmental Finance
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 21. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1344 clarifies existing law to provide that a pledge of security or depository bond is not required to secure repayment of a public deposit to the extent the deposit is guaranteed by the Federal Deposit Insurance Corporation. The bill also authorizes a political subdivision to invest general fund money in a certificate of deposit fully insured or guaranteed with the Federal Deposit Insurance Corporation and placed for the benefit of the public depositor by a public depository through an appropriate reciprocal deposit placement service as determined by the commissioner of the Department of Financial Institutions.

Senate Bill No. 2153 changes the membership of the State Investment Board by providing that the three representatives of the Public Employees Retirement System (PERS) Board must be two of the elected members of the PERS Board selected by the PERS Board and one additional member of the PERS Board as selected by that board. Previously, the three PERS representatives all were required to be elected members of the PERS Board.

House Bill No. 1114 removes the Veterans' Cemetery trust fund from the management of the State Investment Board and includes within the management of the State Investment Board the budget stabilization fund and the petroleum release compensation fund.

House Bill No. 1264 validates bonds issued by a public body before July 1, 2009.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 22
Guaranty, Indemnity, and Suretyship
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting 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.

House Bill No. 1195 provides certain indemnity clauses contained in or affecting a motor carrier contract are void and unenforceable to the extent the contract purports to indemnify, defend, or hold harmless the promisee from or against liability for loss or damage resulting from the negligence or intentional acts or omissions of the promisee if certain conditions are met.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 23
Health and Safety
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 23. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

The legislation relating to health and safety may be classified in these subject areas: emergency medical services, health care facilities, death and end of life, and miscellaneous.

EMERGENCY MEDICAL SERVICES

House Bill No. 1215 authorizes emergency medical technician and paramedics to administer influenza vaccines and establishes the terms under which such vaccines may be administered.

Senate Bill No. 2004 appropriates $2,750,000 from the insurance tax distribution fund to the State Department of Health for grants to emergency medical services operations and for a grant to contract with an organization to develop, implement, and provide an access critical ambulance service operations assessment process to improve emergency medical services delivery, leadership development training, and a biennial emergency medical services recruitment drive and to provide regional assistance to ambulance services to develop a quality review process for emergency medical services personnel and a mechanism to report to medical directors.

Senate Bill No. 2047 provides a general fund appropriation of $128,400 to the State Department of Health for the purpose of providing emergency medical training grants to rural law enforcement agencies for licensed officers who choose to become licensed first responders.

Senate Bill No. 2050 modifies the definition of "emergency medical services" as the term applies to the chapter of law addressing emergency medical services; directs that the rules addressing emergency medical services operations must include performance standards, which may include response time standards; provides the State Department of Health may regulate the communications methods and protocol for emergency medical services operations; and provides that a taxing district that levies a special emergency medical services or ambulance service levy shall ensure that every ambulance service that has portions of its service area in that taxing district receives a portion of the revenue from that tax and that the taxing district shall allocate the special tax levy revenue to each ambulance service based upon the taxable value of the property within each township of the taxing district.

HEALTH CARE FACILITIES

House Bill No. 1339 directs the State Department of Health to establish a system through which qualified hospitals are designated as primary stroke centers; directs the State Department of Health to establish a Stroke System of Care Task Force; and directs the State Department of Health to adopt a nationally recognized standardized stroke-triage assessment tool, with which each emergency medical services operation in the state shall comply.

Senate Bill No. 2044 extends for two more years the moratorium on expansion of basic care bed capacity and on expansion of long-term care bed capacity.

Senate Bill No. 2046 directs the State Department of Health to conduct a life safety survey process at the conclusion of a construction, renovation, or construction and renovation project of each health facility licensed by the department's Division of Health Facilities.

Senate Bill No. 2048 provides that effective January 1, 2011, a hospital that offers emergency services to the public shall meet trauma center designation standards and participate in the trauma system; authorizes the Health Council to adopt rules that allow for provisional trauma designation status for hospitals; and requires that quick response units be licensed by the State Department of Health.

Senate Bill No. 2174, within the chapter addressing residential care for autistic children, replaces the term "autistic or autistic-like characteristics" with the term "autism spectrum disorder."

Senate Bill No. 2399 provides that if a medical facility or medical provider has a performance review that results in the receipt of a rating and at any time pays a fee to the person completing the rating, the medical facility or medical

provider shall include a public notice in any promotional or marketing activities referring to the rating information stating that a payment was made to the person performing the rating.

Senate Bill No. 2403 modifies the definitions of the terms "health care organization," "peer review organization," "peer review records," and "professional peer review" for purposes of the medical peer review records law; provides a health care organization may release documents that are prepared by a peer review organization which identify or analyze trends in medical errors to the State Department of Health, North Dakota Healthcare Association, and North Dakota Hospital Foundation and that the recipients of these documents may release any of this information to the public; and provides documents generated by a peer review organization and made available to the State Department of Health, North Dakota Healthcare Association, or North Dakota Hospital Foundation may not be introduced into evidence in any civil or administrative proceeding.

DEATH AND END OF LIFE

House Bill No. 1323 provides for how a competent adult may direct how that adult's remains are to be disposed of after death and directs a person with the duty of burial, a crematorium, or a funeral establishment to carry out the instructions regarding disposition.

Senate Bill No. 2168 as part of the bill revising the law relating to county coroners, updates the statutory qualifications and duties of the State Forensic Examiner and creates new law regarding the State Forensic Examiner's duties relating to autopsy reports.

Senate Bill No. 2195 revises the Uniform Anatomical Gift Act to address the situation in which a donor's declaration or advance health care directive conflict with regard to the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy.

Senate Bill No. 2237 authorizes the Secretary of State to establish and maintain a health care record registry through which a health care directive or revocation of a health care directive may be filed.

MISCELLANEOUS

House Bill No. 1098 removes the July 1, 2011, expiration date from the chapter of law addressing petroleum release mediation.

House Bill No. 1386 provides that if the State Health Officer requests that an animal's brain be tested for rabies, the State Microbiology Laboratory of the State Department of Health or the North Dakota Veterinary Diagnostic Laboratory shall conduct the test and provides the State Department of Health may conduct a rabies diagnosis of farm animals, domestic animals, and wildlife that are suspected of having rabies.

House Bill No. 1231 appropriates $196,000 from the general fund to the State Department of Health for the purpose of providing a grant to a nonprofit organization for establishing a mobile dental care service to provide dental treatment, prevention, and education services to low-income and underserved children in areas of the state with limited or unavailable dental services.

Senate Bill No. 2167 provides if a state agency uses state funds to provide free medical equipment to an individual, that state agency shall establish a policy addressing the possible reuse, recycling, or resale value of the medical equipment upon replacement of the medical equipment by that state agency or upon disuse of the medical equipment by the individual.

Senate Bill No. 2230 appropriates to the State Department of Health $1 million from federal stimulus funds and $1 million from the general fund for providing grants to domestic violence sexual assault organizations.

Senate Bill No. 2332 repeals the law that creates the Health Information Technology Steering Committee and creates a new Health Information Technology Advisory Committee under Chapter 54-59.

Senate Bill No. 2333 authorizes a group of public health units or an existing lead multidistrict health unit to be a regional public health network and establishes the requirements, powers, and duties for such a regional public health network.

Senate Bill No. 2344 provides that if a woman acts in a discreet and modest manner, that woman may breastfeed her child in any location where the woman and child are authorized to be and also provides an employer may use the designation "infant friendly" if the employer adopts a workplace breastfeeding policy that meets specified requirements.

Senate Bill No. 2366 prohibits the sale and the distribution of a skyrocket, customarily known as a bottle rocket, if the outside diameter of the casing is less than 5/8 inch and the length of the casing is less than 3.5 inches.

Senate Bill No. 2412 provides a $369,900 general fund appropriation to the State Department of Health for the purpose of providing a grant to the North Dakota Fetal Alcohol Syndrome Center for the 2009-11 biennium.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 24
Highways, Bridges, and Ferries
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 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. 2012 designates United States Highway 85 from the South Dakota border to the junction of United States Highway 2 and United States Highway 2 from the Montana border to the junction of United States Highway 85 as the Theodore Roosevelt Expressway. In addition, the bill increases the amount of money that may be withdrawn by the Department of Transportation from the Department of Transportation fund from the sales of road materials to an amount not to exceed the amount of sales or $1 million a year, instead of as previously allowed of up to $200,000 a year, and allows the Department of Transportation to borrow money from the Bank of North Dakota to advance, in addition to as previously allowed, to match federal emergency relief funds.

House Bill No. 1436 changes the name of the Legislative Council to Legislative Management for purposes of appointing a member of the House standing Transportation Committee and Senate standing Transportation Committee to the cooperating committee of the Multistate Highway Transportation Agreement.

Senate Bill No. 2443 requires that costs associated with changing, removing, relocating, or installing utility property as a result of projects funded through federal stimulus money must be paid to the affected utility by the state or political subdivision from federal stimulus money, if allowed by federal law, as part of the cost of the project.

House Bill No. 1514 extends for two years the time money in the special road fund that is not obligated in a fiscal biennium may be held before the funds revert to the state highway fund.

House Bill No. 1353 creates a procedure for and cost recovery for facility relocation as a part of a state highway or political subdivision road project.

Senate Bill No. 2147 allows the director of the Department of Transportation to use the design-build method of project delivery to expedite the construction of a project by combining the design of construction elements of a highway or bridge project into a single contract. In addition, this method is limited to one signal light project and one box culvert structure project after a determination in writing by the director that it is appropriate and in the best interest of the public. This bill is effective through December 31, 2013.

Senate Bill No. 2054 allows cooperation with tribal governments for the construction and maintenance on highways in the state highway system. In addition, any agreement must be limited to those necessary to meet federal highway program spending requirements and are not limited, as previously required, to a $25,000 maximum.

Senate Bill No. 2086 removes the limits on expenditures from highway operating funds and the per student limitation for continuing grants for financial aid for study in undergraduate coursework in return for working for the Department of Transportation upon graduation; however, the per student grant is limited to the tuition of the institution for which the student is enrolled.

House Bill No. 1340 exempts a municipality located within a designated metropolitan planning organization from developing and adopting a master street plan. In addition, the bill requires a metropolitan planning organization to develop transportation plans and programs for metropolitan areas which encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and through urbanized areas of this state while minimizing transportation-related fuel consumption, air pollution, and greenhouse gas emissions.

House Bill No. 1495 prohibits a person from placing a tree or portion of a tree within the vertical plane of a section line or highway right of way. In addition, a tree or portion of a tree within the vertical plane of a section line or highway right of way must be removed by the owner upon notice or the tree or portion of the tree will be removed by the county or township and the cost entered the same as taxes against the adjacent property.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 25
Mental and Physical Illness or Disability
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 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.

House Bill No. 1012 provides that a person may not be admitted to the Developmental Center at Westwood Park, Grafton, unless that person has undergone a screening process at the center to determine whether the admission or readmission is appropriate.

House Bill No. 1078 provides that the North Dakota Vision Services - School for the Blind serves as a National Instructional Materials Access Center authorized user for the purpose of access to and conversion of accessible instructional materials in alternate formats for use by blind individuals, individuals with visual impairment, and students with other print disabilities. The bill also provides for a definition of student with print disabilities.

House Bill No. 1436 changes the name of the Legislative Council to Legislative Management. The bill also distinguishes between Legislative Management, which is the 17-member legislative body chosen biennially before the close of each regular legislative session, and the Legislative Council, which provides staff services to the Legislative Management.

Senate Bill No. 2098 provides that, for the purpose of involuntary commitment due to mental illness or chemical dependency, a written statement of support which accompanies a petition may be provided by an addiction counselor. The bill also provides that the screening of an individual in a public treatment facility for care of a mental illness or chemical dependency must be performed in person whenever reasonably practicable.

Senate Bill No. 2211 provides that a person is guilty of a Class C felony and is subject to a civil penalty of up to $10,000 if that person willfully and unjustifiably kills, shoots, tortures, torments, beats, kicks, strikes, mutilates, disables, or otherwise injures a service animal. The bill also provides that a person is guilty of a Class A misdemeanor and is subject to a civil penalty of up to $5,000 if that person willfully harasses, taunts, or provokes a service animal or interferes with a service animal while the animal is working.

Senate Bill No. 2421 clarifies which professionals may conduct an evaluation of a respondent's physical condition, mental status, or whether the respondent is chemically dependent by relocating the language from the definition of expert examiner and independent expert examiner to Section 25-03.1-11, which provides for the procedural requirements of the examination.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 26.1
Insurance
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 26.1. Bills primarily affecting other titles may also affect this title but those bills are not summarized in this memorandum.

The legislation relating to insurance may be classified in these subject areas: insurance producers, state bonding fund, health, Insurance Commissioner, automobiles, insurance companies, and miscellaneous.

INSURANCE PRODUCERS

House Bill No. 1141 increases the fee for a surplus lines insurance producer's or insurance consultant's license from $10 to $100 and the fee for annual renewal of the license from $10 to $25.

House Bill No. 1142 provides a grandfather provision allowing insurance producers and insurance consultants who are at least age 62 as of January 1, 2010, who have combined total years of continuous licensure that equals 85 years, to be exempt from continuing education licensure requirements.

House Bill No. 1192 modifies the law relating to insurance producers doing business in North Dakota, including modifying the period of time within which a producer shall complete continuing education and clarifying that all insurance producers, regardless of the type of lines they sell, shall file a license continuation every two years; revises the maximum and minimum civil penalty for violation of the insurance producer law; and repeals the law that requires the Insurance Commissioner to hold a hearing if a producer's license is canceled for failure to file or pay the license fee.

Senate Bill No. 2380 amends the state's annuity suitability law providing fixed index annuities and variable annuities must be supervised for suitability by a broker dealer, clarifies the chapter of law addressing annuity transaction practices does not preempt any other securities law of the state, and updates a statutory reference to the National Association of Securities Dealers to the Financial Industry Regulatory Authority.

STATE BONDING FUND

House Bill No. 1294 authorizes the Insurance Commissioner to issue bonds in the amount necessary to carry out the purposes of the state bonding fund; clarifies the chapter of law dealing with the state bonding fund does not prohibit state agencies or political subdivisions from purchasing bonds issued by duly authorized surety companies; however, if such a bond is purchased, evidence of that bond must be filed with the Insurance Commissioner; and replaces the duties of the State Treasurer with the Office of Management and Budget as they relate to the insurance regulatory trust fund and removes the duties of the State Treasurer relating to the state bonding fund.

Senate Bill No. 2144 modifies when and how the State Auditor shall investigate the account of a public employee or public official who defaults or creates a liability against the state bonding fund, providing the State Auditor may arrange to have an investigating firm conduct the audit and providing all reasonable audit costs incurred must be paid out of the state bonding fund.

Senate Bill No. 2300 modifies the minimum amount of state bonding fund coverage for state agencies and political subdivisions, providing the coverage must be based upon the amount of money or property handled and the opportunity for defalcation, but the amount must at least equal the amount of money or property actually handled or $10,000, whichever is less.

HEALTH

House Bill No. 1010 expands Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) health insurance coverage as provided under the federal American Recovery and Reinvestment Act of 2009 and provides for the statutory annual salary for the Insurance Commissioner of $83,550 beginning July 1, 2009, and $87,728 beginning July 1, 2010.

House Bill No. 1204 expands group and individual health insurance coverage minimums to require coverage of illness or loss that is a consequence of intoxication or being under the influence of any narcotic and provides that group health insurance coverage may exclude coverage of a loss to which a contributing cause was the insured's

commission of a crime or the insured's engagement of an illegal occupation, except a crime under Section 39-08-01, relating to driving under the influence.

Senate Bill No. 2214 makes several changes to the Comprehensive Health Association of North Dakota (CHAND) law, including revising CHAND eligibility requirements for Health Insurance Portability and Accountability Act of 1996 (HIPAA) applicants to address residency issues and relocation issues; implements resident dependent and resident spouse eligibility provisions from the Model High Risk Pool Act; clarifies limitation of CHAND coverage of newly born children; clarifies waiting period coverage under CHAND; and streamlines the eligibility process for CHAND applicants who have reached a lifetime maximum under a private health insurance policy.

Senate Bill No. 2274 provides a health insurance provider may not use an independent external review unless the provider first has exhausted all internal appeal processes offered by the insurance company, nonprofit health service corporation, or health maintenance organization.

Senate Bill No. 2318 defines "qualified program of all-inclusive care for the elderly" and provides there is a $250,000 surety bond requirement for a qualified program of all-inclusive care for the elderly operating in the state.

INSURANCE COMMISSIONER

House Bill No. 1136 authorizes the Insurance Commissioner to charge a processing fee for electronic filings and removes the Insurance Commissioner's authority to charge a fee for a written licensee's examination administered by the office of the commissioner.

House Bill No. 1196 removes the requirement that the Insurance Commissioner annually report to the Legislative Assembly or the Legislative Council the commissioner's findings relating to the use of modified community ratings for hospital and medical insurance.

AUTOMOBILES

House Bill No. 1158 expands the current automobile insurance and warranties law by providing that all persons, other than original equipment manufacturers, which issue a written automobile warranty contract, automobile mechanical breakdown contract, or automobile service contract, shall maintain a policy of insurance which provides coverage for the person's contractual obligation.

House Bill No. 1245 eliminates the requirement that a request for suspension of automobile insurance coverage be a signed, written request.

INSURANCE COMPANIES

House Bill No. 1175 provides that before paying a claim under a contract of insurance issued in the state, an insurer or government self-insurance pool may exchange information about a claimant with the Department of Human Services.

Senate Bill No. 2104 provides it is an unfair or deceptive act or practice in the business of insurance to base compensation of claims employees or contracted claims personnel on the number of policies canceled, the number of times coverage is denied, use of a quota limiting the number of claims, or the use of an arbitrary quota or cap limiting the amount of claims payments without due consideration to the merits of the claim.

Senate Bill No. 2109 broadens an insurer's trade secret protection for scoring models for insurance scores used for underwriting or rate risks to include protection of all related scoring models, scoring processes, and information related to the scoring models or processes.

MISCELLANEOUS

House Bill No. 1284 repeals the existing law relating to viatical settlement contracts and replaces it with a new body of law based on the National Conference of Insurance Legislators Life Settlement Model Act.

House Bill No. 1436, as part of the bill that changes the name of the Legislative Council to the Legislative Management and retains the name Legislative Council as it pertains to the Legislative Council staff, corrects a reference to the Legislative Council.

Senate Bill No. 2181 corrects a 2005 legislative drafting error relating to contracts of reinsurance.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 27
Judicial Branch of Government
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 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: juveniles, courts, and miscellaneous.

JUVENILES

House Bill No. 1089 provides that the records of the Division of Juvenile Services relating to an individual who is or has been in the custody of the division may be disclosed to a court or probation staff for use in conducting a presentence investigation or to the Social Security Administration upon written authorization for disclosure by the individual's parent or legal guardian. The bill also provides that if the Division of Juvenile Services receives any money for child support on behalf of a child committed to its custody and care, any payments in excess of foster care maintenance payments, or money received from the Social Security Administration, the division may establish an account for the child and use the money that best serves the best interests of the child.

House Bill No. 1094 amends the definition of permanency hearing to include consideration of joint placement of siblings. The bill also provides that, with certain exceptions, reasonable efforts must be made to preserve families, reunify families, and maintain family connections to place siblings in the same foster care, relative, guardianship, or adopting placement. The bill provides that a legal custodian of a child has a duty after the removal of a child from the custody of the parent to exercise due diligence to identify and provide notice to other adult relatives regarding the specifics of the child placement.

House Bill No. 1107 deals with the responsibility for the costs and expenses for the care of a child who has been committed by the court to the legal custody of a public agency or a private agency other than the parent. The bill provides that unless the court finds that it is unlikely that the party will be unable to pay attorney's fees and expenses, the court is required to order the parents or other persons legally obligated to care for and support the child, to reimburse the presumed amount of indigent defense costs and expenses.

House Bill No. 1108 provides that for the purpose of the right to counsel under the Uniform Juvenile Court Act, a child refers to an individual who is under 18 years of age at the time of the proceeding.

House Bill No. 1159 provides that, with respect to the retention and disposition of juvenile court records, each agency, except the Department of Human Services, the Department of Corrections and Rehabilitation, and county social services may not keep a juvenile file or record longer than is required by the records retention policy of that official, department, or agency.

House Bill No. 1333 provides that the juvenile court has exclusive original jurisdiction of civil forfeiture proceedings arising under Chapter 19-03.1 or Section 29-31.1-04 for which a child is alleged to have possessed forfeitable property.

Senate Bill No. 2159 clarifies that if a child is participating in a juvenile drug court program as a result of an adjudication for a delinquent offense, the drug court may order the child detained in a juvenile detention center.

Senate Bill No. 2169 provides that with certain exceptions, the law enforcement and correctional facility records and files of a child alleged or found to be delinquent, unruly, or deprived are not open to public inspection.

COURTS

House Bill No. 1296 increases the maximum amount that may be claimed in an action in small claims court from $5,000 to $10,000.

Senate Bill No. 2002 provides for changes to the salaries of justices of the Supreme Court and district court judges.

Senate Bill No. 2069 increases the cap on the portion of the civil case filing fee which is deposited into the civil legal services defense fund from $400,000 to $650,000 per biennium.

Senate Bill No. 2118 increases juror compensation from $25 for the first day of required attendance at sessions of the district court to $50 for the first day and all subsequent days of required attendance unless the juror is in attendance for four hours or less on the first day in which case compensation for the first day is $25.

Senate Bill No. 2120 clarifies those prospective jurors who may be disqualified from the jury pool. The bill provides that a prospective juror is disqualified from the jury pool if the prospective juror is not a citizen of the United States and a resident of the state and county in the jury pool.

Senate Bill No. 2121 authorizes the Supreme Court to designate by rule the judicial districts in this state and the number of judges in each of the judicial districts. The bill also amends the procedure of the Supreme Court with respect to the abolition of district judgeships.

Senate Bill No. 2122 provides for a copy of a transcript in a criminal action to be provided to the Department of Corrections and Rehabilitation if the defendant is sentenced to the legal and physical custody of, or placed under the supervision and management of, the Department of Corrections and Rehabilitation.

MISCELLANEOUS

House Bill No. 1207, with respect to the conduct of attorneys, provides that an attorney who serves as a fiduciary of an estate, trust, or conservatorship must be represented by another attorney. The bill provides that the attorney who serves as fiduciary or the attorney's law firm may not serve as attorney for the fiduciary.

House Bill No. 1324 removes a cross-reference to Section 57-38-30.3, which is being repealed by this bill.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 28
Judicial Procedure, Civil
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 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 civil judicial procedure may be classified in these subject areas: civil actions, administrative agency rules, and miscellaneous.

CIVIL ACTIONS

House Bill No. 1039 clarifies and revises several of the absolute exemptions, including family books, clothing and wearing apparel, and fuel; clarifies that certain exemptions are available only to the head of household; increases and clarifies the motor vehicle exemption; allows an exemption for a house trailer or mobile home to be taken in lieu of the homestead exemption; for the purpose of claiming an account as exempt, limits the time period within which an individual may contribute to a retirement account; increases the additional exemption for head of a family from $5,000 to $7,500; clarifies the exemptions for pensions, annuity policies, and life insurance; increases or eliminates the maximum amount of compensation that may be claimed as exempt on account of the debtor's right to receive or property that is traceable to wrongful death or personal bodily injury; and increases the homestead exemption from $80,000 to $100,000.

House Bill No. 1302 allows for an extension of time for serving an expert opinion affidavit in medical liability actions. The bill provides that the court may set a later date for serving the affidavit if the plaintiff's request for an extension of time is made before the expiration of the three-month period following commencement of the action.

Senate Bill No. 2232 makes procedural changes with respect to the execution of judgment. This bill clarifies that if the judgment requires the payment of money or the delivery of property, the judgment may be enforced by execution. The bill also provides that if the judgment requires the sale of property, the judgment may be enforced by a special execution directing the sale and application of the proceeds in conformity with the judgment. The bill provides that real property must be sold in the county in which it is located.

Senate Bill No. 2250 updates terminology by changing the name of a "mechanic's" lien to a "construction" lien.

ADMINISTRATIVE AGENCY RULES

House Bill No. 1306 exempts from the definition of administrative agency the Attorney General with respect to the 24/7 sobriety program guidelines and program fees.

Senate Bill No. 2026 advances the filing deadline for administrative agency rules by 15 days to allow more time for preparation and delivery of proposed rules to Administrative Rules Committee members.

MISCELLANEOUS

House Bill No. 1436 changes the name of the Legislative Council to the Legislative Management. The bill also distinguishes between the Legislative Management, which is the 17-member legislative body chosen biennially before the close of each regular legislative session and the Legislative Council, which provides staff services to the Legislative Management.

Senate Bill No. 2074 codifies the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act. This Act addresses the issue of jurisdiction over adult guardianships, conservatorships, and other protective proceedings and provides a mechanism for resolving multistate jurisdictional disputes.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 29
Judicial Procedure, Criminal
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 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. 1107 clarifies the circumstances under which a defendant for whom legal counsel is provided at public expense is required to reimburse the state for the expenses. The bill also provides that expenses necessary for the adequate defense of an indigent person prosecuted for violation of a home rule county's ordinance must be paid by the home rule county.

House Bill No. 1288 provides that the use of a uniform traffic complaint and summons must comply with the North Dakota Rules of Criminal Procedure.

House Bill No. 1336 removes a cross-reference to Section 14-07.1-13, which is repealed in this bill.

House Bill No. 1416 provides that a peace officer who receives a warrant for the arrest of a fugitive and does not execute the warrant must enter the warrant in the central warrant information system. The bill provides that a warrant of arrest for the failure to pay a fine or fee may be entered at the discretion of the peace officer. The bill also provides that a criminal justice agency may specify whether the agency will extradite from outside the county or state and the county or state from which the agency will extradite.

Senate Bill No. 2119 changes the method by which the clerk of district court selects the name of jurors. The bill provides that the clerk must select the names of prospective jurors from a randomized list of names developed in accordance with Chapter 27-09.1 and court rules. The bill also repeals sections that relate to the previous process of selecting jurors, a process which involved drawing names of prospective jurors from names placed in a covered box.

Senate Bill No. 2028 decreases from $50 to $25 the amount of the community service supervision fee that the court must impose upon a defendant who receives a sentence that includes community service.

Senate Bill No. 2120 clarifies that a defendant has the right to have a trial in the county in which the offense is alleged to have been committed or is triable.

Senate Bill No. 2182 provides that notification to the owner of seized property that the property may be reclaimed must be done by regular mail if the value of the property is less than $250 and by certified mail if the value of the property is equal to or greater than $250. These threshold amounts were increased from $50.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 30
Judicial Procedure, Probate
Summary of Bills Enacted by 2009 Legislative Assembly

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

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 30.1
Uniform Probate Code
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 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. 2074 adopts the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act, which provides for interstate jurisdiction for guardianship among adopting states.

House Bill No. 1072 changes the Uniform Probate Code as to the definitions for "record" and "sign"; as to the intestate share of a decedent's surviving spouse; as to the share of heirs other than the surviving spouse and, in particular, as to grandparents and descendants of a deceased spouse who survived the decedent; as to the requirement of survival of a decedent as it relates to an individual in gestation; as to parents being barred from inheriting in certain circumstances; as to assisted reproduction and adoption and gestational carriers on the parent-child relationship; as to the elective share minimum of $75,000, instead of as previously capped at $50,000; as to the exempt property cap of $15,000, instead of as previously allowed $10,000; as to the family allowance of $27,000, instead of as previously allowed $18,000; as to class gifts and adopted children, children of assisted reproduction, or a gestational child; as to when a substitute gift is superseded by an alternative beneficiary designation in relation to life insurance, a retirement plan, an account payable on death, or under a trust; as to court reformation to correct mistakes; as to court modification to achieve transferor's tax objectives; and as to a contested case in which the proper execution of a will is at issue.

Senate Bill No. 2156 allows a domiciliary foreign personal representative to file certified copies, instead of as previously allowed authenticated copies, of the person's appointment and of any official bond to be personal representative as to property in a county belonging to the decedent.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 31
Judicial Proof
Summary of Bills Enacted by 2009 Legislative Assembly

There was no legislation enacted which primarily affected 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.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 32
Judicial Remedies
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 32. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1015 relates to the liability of the state with respect to a state employee's operation of a rental vehicle. The bill removes the requirement that the vehicle must be rented for a period of 30 days or less for the exemption from liability to apply.

House Bill No. 1042 repeals Section 32-42-04, which relates to a reporting requirement of medical malpractice insurance providers. Because the last year the report was required to be filed with the Insurance Commissioner was 1999, this section became obsolete.

House Bill No. 1069 relates to the evidence required in a civil action involving a motor vehicle accident resulting in bodily injury. The bill changes the alcohol concentration from ten one-hundredths of 1 percent to eight one-hundredths of 1 percent to be consistent with other provisions of law relating to alcohol concentration amounts.

House Bill No. 1104 clarifies that certain risk management records in the possession of the Office of Management and Budget or a public entity are privileged and exempt.

House Bill No. 1122 relates to the authorization of agencies to limit the liability to the state of certain contracting parties. The bill provides that contracts for economic forecasting for the Office of Management and Budget may contain a provision limiting the state's ability to seek and recover indirect consequential damages if the director of the Office of Management and Budget and the Attorney General determine that the services cannot be effectively obtained without the limitation and that the limitation does not pose any significant risk of loss to the state and is in the best interests of the state.

House Bill No. 1205 provides for the procedural requirements of a transfer of structured settlement. A structured settlement is an arrangement for periodic payment of damages for personal injuries or sickness established by settlement or judgment in resolution of a tort claim or for periodic payments in settlement of a workers' compensation claim. The bill includes the information that is required to be disclosed to the payee, the requirements for the approval of transfers of structured settlement payment rights, the procedure for the approval of transfers, and procedures for the settlement of disputes.

House Bill No. 1430 relates to successor corporation asbestos-related liabilities. The bill provides that the cumulative successor asbestos-related liabilities of an innocent successor corporation are limited to the fair market value of the total gross assets of the transferor determined as of the time of the merger or consolidation. The bill provides a procedure for establishing fair market value of total gross assets. The bill also provides that the bill applies to all asbestos claims filed against an innocent successor on or after August 1, 2009, and to any pending asbestos claims against an innocent successor in which trial has not commenced as of August 1, 2009.

Senate Bill No. 2256, which relates to contracts between the state and a political subdivision, removes the exception that a contract between a state and a political subdivision may not contain a provision that requires one party to assume the liability of the other unless the agreement is entered into in good faith and is set forth in a separate writing signed by both parties. This bill became effective on April 23, 2009.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 33
County Justice Court
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 33. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1042 repeals Chapter 33-06, which relates to eviction, and moves the language of this chapter to a new location in Title 47, which relates to property.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 34
Labor and Employment
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 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. 1099 establishes a two-year statute of limitations by which an employee shall file a claim with the Labor Commissioner for wages due under the wage collection law or under the minimum wages and hours law.

House Bill No. 1175, as part of a bill that makes several changes relating to child support enforcement, modifies the method used by the Department of Human Services to enforce the requirement that an employer report new hires and simplifies the process by providing for a separate legal action against the employer to collect any civil penalty that is imposed for failing to report new hires.

House Bill No. 1436, as part of the bill that changes the name of the Legislative Council to Legislative Management and retains the name Legislative Council as it pertains to the Legislative Council staff, corrects a reference to the Legislative Council staff.

Senate Bill No. 2267 amends the whistleblower protection law available for public employees, providing a state employee who claims reprisal under the whistleblower law may appeal to Human Resource Management Services in the manner prescribed for classified employees and providing the Labor Department shall receive complaints of violation of the whistleblower law and the department may attempt to obtain voluntary compliance through informal advice, negotiation, or conciliation.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 35
Liens
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 35. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

House Bill No. 1175, as part of a bill that makes several changes relating to child support enforcement, modifies the child support lien law relating to a child support lien on personal property that does not consist of a vehicle, a vessel, or an account maintained in a financial institution allowing the child support agency to file the notice of lien with the third party that is in possession of the personal property.

House Bill No. 1229 creates a lien for rent, labor, and other charges and expenses reasonably incurred in the disposition of personal property that is stored under a rental agreement in a portable storage unit.

House Bill No. 1301, as part of a bill that addresses the conversion of a manufactured home from personal property to real estate, amends the law addressing security interests in manufactured homes, including distinguishing between manufactured homes that are permanently affixed to real property and those that are not.

Senate Bill No. 2250 changes the name of a "mechanic's lien" to a "construction lien" and revises provisions relating to these construction liens, including providing for a three-year statute of limitation within which the lien must be filed and allowing an owner that contests the validity of the lien to bring suit in district court.

Senate Bill No. 2404 provides a lien for oil and gas owners to secure payment for the sale of oil and gas.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 36
Livestock
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 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.

LIVESTOCK

House Bill No. 1491 increases the penalty for a second or subsequent offense of altering or defacing a brand, increases the penalty for engaging in prohibited actions involving a bill of sale, increases the penalty for a second or subsequent offense involving false proof of ownership in the sale of livestock, increases the penalty for a first and subsequent offense involving certifications of livestock registration, and increases the penalty for the offense of transporting livestock from this state without a brand inspection.

House Bill No. 1326 authorizes the State Board of Animal Health to verify and certify that certain livestock production practices meet the standards and protocols articulated by the producer and that certain livestock processing practices meet or exceed the standards, descriptions, and specifications articulated by the processor.

Senate Bill No. 2342 provides an appropriation of $245,500 to the State Board of Animal Health to defray the expenses incurred by livestock producers participating in a program to test for and control Johnes disease. The bill also calls for a study regarding the impact of Johnes disease on livestock producers in the state.

STATE BOARD OF ANIMAL HEALTH COMPENSATION

Senate Bill No. 2242 raises the per diem compensation for members of the State Board of Animal Health and members of the Board of Appraisers from $50 to $135.

MISCELLANEOUS

House Bill No. 1496 directs the Department of Commerce to conduct an equine processing facility feasibility study and authorizes the creation of a five-member advisory committee to guide the department in its study. The bill also appropriates $50,000 in matching funds for the study.

House Bill No. 1110 prohibits the importation, transportation, or possession of live feral swine; provides that a person may not intentionally, knowingly, or negligently allow swine to live in a feral state; and provides that a person may not hunt or trap feral swine, sponsor or promote the hunting or trapping of feral swine, assist in the hunting or trapping of feral swine, profit from the release of feral swine, or profit from the hunting or trapping of feral swine. The bill also requires notification of the State Board of Animal Health if a person believes feral swine are present on property owned by the person or if the person encounters feral swine on such property.

House Bill No. 1112 maintains the imposition of a criminal penalty for violations of the state meat inspection laws and authorizes the Agriculture Commissioner to impose a civil penalty as well.

House Bill No. 1025 contains several provisions reconciling cross-references. Those provisions are codified in Title 4.1 and described in the summary of Title 4.1.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 37
Military
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 37. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

Senate Bill No. 2012 creates the state disaster relief fund for defraying the expenses for state disasters, including providing funds required to match federal funds for expenses associated with declared disasters in the state, within legislative appropriation. In addition, any interest or other fund earnings must be deposited in the fund.

House Bill No. 1181 prohibits discrimination in hiring an individual who is a volunteer emergency responder based on the fact that the individual is a volunteer emergency responder and allows for a civil action against an employer that violates this prohibition. In addition, the bill prohibits an employer from terminating or demoting an employee who is a volunteer emergency responder based upon the employee being absent or tardy from employment due to serving as a volunteer emergency responder in a disaster or emergency and provides for a civil action. The bill provides for an exemption if the employer is a state agency, a political subdivision, a private entity that performs critical emergency services during a disaster or emergency, or a private entity that determines the volunteer emergency responder services are so critical that they cannot be performed by another employee and the employee's absence will create potential for irreparable harm to or permanent closure of the private entity. The Governor or Adjutant General may supersede a private employer if the nature of the emergency or disaster is so serious that services provided by the volunteer emergency responder are key and essential to the emergency response efforts and public safety responsibilities of the Adjutant General's office.

House Bill No. 1016 amends Section 37-29-03 as created by House Bill No. 1181 to allow 20 regular working days of absence by an employee to serve as a volunteer emergency responder, instead of 10 regular business days as in House Bill No. 1181, before the employer may terminate or demote the employee. In addition, the bill removes the requirement in House Bill No. 1181 that the employee must continue to make reasonable notification efforts to the employer over the course of the absence.

House Bill No. 1057 requires county veterans' service officers to be accredited by the National Association of County Veterans' Service Officers by August 1, 2011. In addition, the bill prohibits a county veterans' service officer from being a conservator for an individual who is receiving benefits or services from the Department of Veterans' Affairs or the United States Department of Veterans' Affairs, unless the individual is the spouse or an immediate family member of the officer, or unless the conservator is appointed by the county as a public administrator. The bill appropriated $26,000 to the Department of Veterans' Affairs for the purpose of arranging for Department of Veterans' Affairs accreditation training for all county veterans' service officers.

House Bill No. 1324 removes a reference to another section of law on an alternative method for computing income tax which was repealed.

House Bill No. 1510 requires an employer to include within the notice that a veteran has not been given preference in employment the reasons for nonselection; notice to the applicant of the right to an appeal hearing; notice to the applicant of the requirement that the request for a hearing must be filed by certified mail within 15 days after the notification; notice to the applicant that a request for an appeal hearing must be made to the Commissioner of Veterans' Affairs at the included commissioner's mailing address; and notice to the applicant that if the applicant requests an appeal, the applicant must mail a copy of the request for an appeal hearing to the employer or employing agency.

House Bill No. 1073 adopts the Uniform Emergency Volunteer Health Practitioners Act.

House Bill No. 1053 includes regional coordination of local emergency management activities within the state disaster plan created by the Division of Homeland Security and allows for regional emergency management organizations that serve more than one county.

Senate Bill No. 2163 moves the placement of laws relating to the State Radio broadcasting system from Chapter 54-23.2 to Chapter 37-17.3.

House Bill No. 1138 allows the Adjutant General to provide a grant to a qualifying member of the National Guard who enrolls in an accredited postsecondary institution in this state for the cost of tuition and fees instead of as previously allowed for only tuition.

House Bill No. 1048 simplifies intrastate mutual aid agreements by repealing present law and replacing it with the requirement that the Department of Emergency Services prepare and distribute to political subdivisions guidelines and model intrastate mutual aid agreements to provide a system of mutual assistance among political subdivisions in the prevention of, response to, and recovery from a local disaster or emergency. In addition, the bill requires counties and cities to participate in intrastate mutual aid and to take steps necessary to ensure eligibility for federal funds to access state funds for disaster response and recovery during a nonfederally declared disaster.

House Bill No. 1482 provides for adjusted compensation for a veteran who performs foreign service in direct support to the global war on terror and removes the cap on the $50 for each month of domestic service of $900 and the cap on $100 for each month of foreign service of $1,800. In addition, the bill removes the cap for combined totals of domestic and foreign service of $1,800.

House Bill No. 1451 increases the penalty for the violation of a burn ban from an infraction to a Class B misdemeanor.

House Bill No. 1128 extends the immunity as a governmental function for actions of emergency management to any person providing goods or services during an emergency if the person is working in coordination with or under the direction of an appropriate governmental emergency or disaster or response entity.

House Bill No. 1484 increases the maximum fee for a hazardous chemical facility from $150 to $475.

Senate Bill No. 2133 allows for the Veterans' Home to arrange for independent third-party telephone services and places the Veterans' Home Governing Board in charge of applications and fees of members of the Veterans' Home instead of as previously provided the Administrative Committee on Veterans' Affairs.

Senate Bill No. 2444 appropriates $12.5 million to the Adjutant General for the purpose of defraying expenses of the 2009 flood disaster.

Senate Bill No. 2393 appropriates $1 million to the Department of Emergency Services for the purpose of providing emergency snow removal grants to counties and cities.

Senate Bill No. 2025 provides a general fund appropriation, a permanent oil tax trust fund appropriation, and federal funds for the purpose of building a new Veterans' Home.

Senate Bill No. 2075 appropriates money for exterior finishing and a geothermal heating system at the Veterans' Home.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 38
Mining and Gas and Oil Production
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 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.

The legislation relating to mining and gas and oil production may be classified in these subject areas: oil and gas, subsurface mineral extraction, mineral interests, geologic storage of carbon dioxide, and coal mining and reclamation.

OIL AND GAS

Senate Bill No. 2413 provides that wells equipped with an electrical generator that consumes at least 75 percent of the gas from the well are exempt from the prohibition that gas may not be flared for longer than one year after the date of first production.

House Bill No. 1071 provides that unleased mineral interests pooled after July 31, 2009, are entitled to a cost-free royalty interest equal to the acreage weighted average royalty interest of the leased tracts within the spacing unit or, at the operator's election, a cost-free royalty interest of 16 percent.

SUBSURFACE MINERAL EXTRACTION

Senate Bill No. 2141 provides for damages to land surface caused by subsurface mineral extraction and related exploration for volcanic ash; precious metals; carbonates; and natural mineral salts of boron, bromine, calcium, fluorine, iodine, lithium, magnesium, phosphorus, potassium, sodium, thorium, uranium, and sulfur; excluding coal, oil and gas, sand and gravel, and rocks crushed for sand and gravel.

MINERAL INTERESTS

House Bill No. 1370 revises the procedure to succeed to ownership of and protect title to dormant minerals. The bill provides that failure to record a statement of claim will not cause a mineral interest to be extinguished if the owner of record files with the county recorder a statement of claim or files with the county recorder documentation that at least one of the activities deemed to be use of the mineral interest took place during the 20-year period immediately preceding the first publication of notice. The bill also provides that the owner or owners of the surface estate may maintain an action in district court in the county in which the minerals are located and obtain a judgment and perfect title in the owner or owners of the surface estate after satisfying the notice requirements of the termination of mineral interests chapter.

GEOLOGIC STORAGE OF CARBON DIOXIDE

Senate Bill No. 2095 establishes permit, fee, and title requirements for the geologic storage of carbon dioxide.

COAL MINING AND RECLAMATION

Senate Bill No. 2140 provides that for lands affected by coal mining activities prior to January 1, 1970, which are affected by remining, the operator's responsibility for successful revegetation extends for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, and other work in order to ensure compliance with applicable revegetation standards.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 39
Motor Vehicles
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 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: title, registration, and license; driving while under the influence; commercial vehicles and licenses; snowmobile, off-highway vehicles, motorcycles, unconventional vehicles and bicycles; Highway Patrol; and miscellaneous.

TITLE, REGISTRATION, AND LICENSE

House Bill No. 1301 provides for the conversion of manufactured homes to real property, for a certificate of title to a manufactured home, and for the department to accept a certificate of origin or certificate of title that is surrendered when a manufactured home is permanently affixed to real property and to cancel the same.

Senate Bill No. 2148 allows a receipt printed on the department's online registration renewal service to be evidence of compliance with motor vehicle registration laws for a period of 15 days from the date printed on the receipt.

House Bill No. 1133 extends from 30 days to 45 days the validity of a certificate of registration issued upon purchase from a licensed vehicle dealer and clarifies that the owner or transferor of a motor vehicle who transfers title shall endorse an assignment and warranty a title upon a certificate of title for the vehicle.

House Bill No. 1153 makes technical corrections to motor vehicle-related laws.

Senate Bill No. 2150 requires an application for registration or certificate of title to include the legal name of the owner as evidenced by a valid state-issued driver's license, identity card, or any other documentary evidence that confirms to the satisfaction of the director the true identity of the owner, and if two or more owners are designated, at least one must comply with this requirement.

Senate Bill No. 2149 changes the term gross weight to registered gross weight and increases the weight from a maximum of 10,000 pounds to 20,000 pounds for the purpose of allowing certain vehicles up to that weight to receive a National Guard number plate, North Dakota Firefighter's Association plate, North Dakota Future Farmers of America Foundation number plate, or public or nonprofit organization number plate and makes the same changes for purposes of registration renewal, exemption from registration, and other registration provisions.

House Bill No. 1414 allows the director to issue a North Dakota Gold Star number plate for an initial additional fee of $15, of which $10 is deposited in the highway tax distribution fund and $5 is deposited in the Veterans' Cemetery maintenance fund, and subsequent payments of annual surcharge of $10 to be paid to the Adjutant General, of which $5 is deposited in the Veterans' Cemetery trust fund and $5 in the Veterans' Cemetery maintenance fund. In addition, the bill provides that the plate must bear a gold star emblem on the left side of the plate with the letters "GS" before the number.

Senate Bill No. 2313 allows for antique military vehicles to display military identification numbers instead of a number plate.

Senate Bill No. 2067 allows for voluntary identification of an applicant for a nondriver color photo identification card or operator's license as an anatomical donor through an online registry approved by the director.

House Bill No. 1161 allows the director to require information on the application for a nondriver color photo identification card to include information to improve identity security and the director may require a Social Security card and proof of residence address as a way of confirming the identity, date of birth, and legal presence of the applicant. In addition, the same provisions apply to operator's licenses and commercial driver's licenses.

House Bill No. 1132 provides technical corrections relating to who may be licensed, the use of Social Security numbers on a driver's license, and disqualifying a commercial driver; removes the requirement that the law

enforcement officer shall immediately take possession of the person's operator's license when testing positive for driving while under the influence; and deems the third day after the mailing of a temporary operator's permit to be the issuance.

House Bill No. 1288 allows the uniform complaint and summons to be used for violations of state law which occur on property that the Department of Transportation owns, leases, or manages or on sovereign lands and requires a court to suspend an individual's hunting, fishing, and trapping privileges until after the final disposition of a case if the individual fails to appear in court after promising to do so on a uniform complaint and summons. In addition, the bill removes the right to appeal from a finding from a district judge or magistrate that the person committed a traffic offense and allows a state's attorney to consent to prosecute an appeal for an offense committed within a city.

DRIVING WHILE UNDER THE INFLUENCE

House Bill No. 1306 allows the director of the Department of Transportation to issue a temporary restricted license for the purposes of participation in the 24/7 Sobriety Program.

House Bill No. 1534 requires that a defendant be notified of the minimum mandatory sentence of one year's imprisonment for causing injury or death while operating a vehicle while under the influence of alcohol and requires the verdict form for a finding of guilt to include the elements that create the minimum sentence.

Senate Bill No. 2112 requires the driver of a motor vehicle to move over a lane on the interstate system or a multilane highway for Department of Transportation maintenance vehicles displaying a flashing light. In addition, an individual who violates this requirement is guilty of an infraction if that person causes an accident and is otherwise subject to two demerit points and a fee of $50.

House Bill No. 1134 clarifies that a law enforcement officer may mail a temporary operator's permit whether or not the person is a resident of the officer's jurisdiction.

House Bill No. 1287 removes references to the level of blood alcohol content for the purposes of suspension for a violation of driving while under the influence or equivalent ordinance to allow a suspension when the record does not contain the blood alcohol content level.

House Bill No. 1219 requires a police officer to compel a driver involved in an accident resulting in death who the officer has probable cause to believe was driving while under the influence or, as added by the bill, committed a moving violation. In addition, if the accident results in serious bodily injury and the law enforcement officer has probable cause to believe the driver was driving while under the influence, the law enforcement officer may compel the driver to submit to testing.

COMMERCIAL VEHICLES AND LICENSES

Senate Bill No. 2241 lowers the overwidth vehicle fee for a calendar year from $500 to $100.

Senate Bill No. 2092 repeals the prohibition on enforcement of rear-end protection, as required by federal law, on rear-end dump trucks and trailers used to haul agricultural products.

Senate Bill No. 2429 changes an hours of service violation from driving more than 10 hours since the last 8 hours off duty to driving more than 11 hours since the last 10 hours off duty and from driving after 15 hours on duty since the last 8 hours off duty to driving after 14 hours on duty since the last 10 hours off duty.

House Bill No. 1438 provides for a nonresident commercial driver's license that does not require a Social Security number and is good only for the period of time of the applicant's authorized stay in the United States. The bill allows renewal without a skills or knowledge test if the license has not expired for longer than one year. In addition, the bill provides for a nonresident commercial driver's license fee of $20.

SNOWMOBILE, OFF-HIGHWAY VEHICLES, MOTORCYCLES, UNCONVENTIONAL VEHICLES, AND BICYCLES

Senate Bill No. 2367 creates a $5 snowmobile safety fee to be collected by the snowmobile dealer from the buyer to be deposited in the state's snowmobile fund to be used solely for snowmobile safety education and promotion. In addition, the bill requires the Parks and Recreation Department to provide a report to the Department of Transportation on motor-powered recreational vehicle dealers that submitted the safety fee for snowmobiles and for off-highway vehicles.

House Bill No. 1318 exempts a snowmobile operator on a snowmobile trail maintained by the Parks and Recreation Department that is within the right of way of a highway from traveling in the same direction as motor vehicles traveling in the lane next to the snowmobile operator.

Senate Bill No. 2378 requires the Department of Transportation to issue a decal that contains the registration number of an off-highway vehicle to the owner and, upon request of the owner, to issue a distinctive number plate. In addition, the bill increases the off-highway vehicle trail tax from $5 to $15 and allows the department to use these funds to make grants to governmental agencies and nonprofit organizations for the purpose of developing and improving off-highway vehicle facilities and use areas and promoting off-highway vehicle safety and education. In addition, the department may use these funds to make grants to law enforcement agencies for the purpose of enforcing laws applicable to off-highway vehicles and off-highway vehicle facilities and use areas.

House Bill No. 1295 allows for the title and registration of an unconventional vehicle for a registration of $50 per year. In addition, the bill defines an unconventional vehicle as a motor vehicle that is designed to travel on at least three wheels in contact with the ground, has an unladen weight of at least 300 pounds but less than 8,000 pounds, has a permanent upright seat or saddle for the driver which is mounted at least 24 inches from the ground, has a steering device for front wheel steering control, is capable of speeds in excess of 65 miles per hour, is equipped as a motorcycle or off-highway vehicle, and may not be registered otherwise under the laws of this state. The bill allows a licensed driver to operate an unconventional vehicle on any highway except an access-controlled highway. In addition, the bill allows motorcycle rims to be less than 10 inches if otherwise in compliance with federal motor vehicle safety standards.

Senate Bill No. 2349 removes the requirement that bicycle riders use a bicycle path and not the roadway when a bicycle path is adjacent to the roadway.

HIGHWAY PATROL

House Bill No. 1233 removes funds received from federal shared forfeiture proceedings from the Highway Patrol asset forfeiture fund.

Senate Bill No. 2153 standardizes the purchase provisions of the Highway Patrol to make the provisions the same as for the Public Employees Retirement System plan; authorizes payment of employee contributions on a pretax basis, instead of on an aftertax basis, for the Highway Patrolmen's retirement system via employer pickup under Internal Revenue Code rules; changes the automatic distribution rules for the Highway Patrol plan to conform with federal requirements relating to automatic distributions; allows members of the Highway Patrolmen's retirement system to elect a new optional form of monthly retirement benefit that provides a graduated increase of 1 percent or 2 percent; and updates federal compliance provisions for the Highway Patrolmen's retirement system, including additional language to comply with Internal Revenue Code Section 415(b) and related regulations.

MISCELLANEOUS

Senate Bill No. 2012 moves the $3 registration fee for the public transportation fund into the motor vehicle registration fees and removes the deposit of $13 of each registration fee into the state highway fund.

Senate Bill No. 2223 creates public transportation coordination pilot projects in a rural and an urban area of this state which must have a regional coordination administrator who coordinates the provision of public transportation services to the residents of the region in a manner that is cost-effective, efficient, and reduces fragmentation and duplication of services. The bill requires the Department of Transportation to develop standards for public transportation providers and contractors who provide public transportation within the coordinated public transportation system and the standards must promote coordination among public transportation providers. In addition, the bill provides spending authority to the department for gifts, grants, or donations for the pilot projects and requires a report to the 62nd Legislative Assembly.

Senate Bill No. 2279 changes who may obtain the investigating officer's opinion about a motor vehicle accident from allowing the director to provide a copy to requiring the director or the investigating agency to provide a completed copy upon request.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 40
Municipal Government
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 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.

House Bill No. 1346 eliminates the requirement that a city or county place the question of establishing an advisory study committee on the ballot at a regular election at least once every five years.

Senate Bill No. 2324 prohibits an individual from being a candidate for more than one office in a city at any given election.

House Bill No. 1257 prohibits a home rule city from using home rule authority to impose higher or lower property tax rates for certain properties and requires all taxable property to be assessed at the same rate, unless otherwise provided by law. The bill is effective for taxable years beginning after December 31, 2008.

Senate Bill No. 2191 provides that the cost of any demolition, repair, or removal of a substandard building or structure by a city constitutes a lien against the real property from which the cost was incurred and that the lien may be foreclosed in judicial proceedings. The bill provides that if the amount obtained from the foreclosure is not sufficient to cover the cost of the demolition, repair, or removal of the substandard building or structure, the city has a lien for the amount of the additional costs on all real property owned, or later acquired, by the owner in the city.

House Bill No. 1420 reduces from two to one the number of certified copies of the annual municipal levy and final budget that must be submitted to the county auditor.

Senate Bill No. 2441 provides that property owned by a nonprofit entity and used exclusively as a cemetery is exempt from the collection of special assessments. The bill requires the city in which the property is located to provide for the payment of special assessments, installments, and interest against the cemetery property by the levy of taxes according to law or by payment from other funds available to the city which are derived from sources other than special assessments. The bill was declared to be an emergency measure and became effective upon filing with the Secretary of State on April 29, 2009.

House Bill No. 1554 provides for joint zoning and subdivision authority between a city and the other political subdivision that previously exercised zoning and subdivision authority in the outer one-half of the extraterritorial zoning authority of the city. The bill provides that land within the area of joint jurisdiction for which a plat or site plan has been presented before May 1, 2009, remains subject to the zoning designations and regulations in effect on May 1, 2009, unless otherwise changed. The bill provides procedures for negotiation and mediation of decisions made by the political subdivisions within areas of joint jurisdiction. The bill was declared to be an emergency measure and became effective upon filing with the Secretary of State on May 5, 2009.

Senate Bill No. 2270 increases the threshold for requiring the advertising for bids for a contract of a park district from $10,000 to $25,000. The bill was declared to be an emergency measure and became effective upon filing with the Secretary of State on April 29, 2009.

House Bill No. 1266 includes child care facilities within the definition of a project for the purposes of the use of municipal industrial development bonds. The bill also removed the requirement that a contracting party furnish information regarding the issuance of the bonds to the Securities Commissioner.

Senate Bill No. 2060 expands the renaissance zone law to include tax incentives for repair or remodeling of public utility infrastructure and for leasehold improvements to property. The bill removes the half-mile requirement for the three-block island provision for renaissance zones. The bill allows a property owner that is not participating in a renaissance zone project to claim state income tax credits equal to an amount of an investment made by the property owner to complete changes in utility services or a building structure necessary because of changes made to property that is part of a renaissance zone project. The provisions of the bill relating to tax incentives are effective for taxable years beginning after December 31, 2008.

House Bill No. 1428 provides that if a city finds that renaissance zone projects have satisfactorily completed one or more blocks within the renaissance zone, the city may apply for and the Department of Commerce may approve withdrawal of those blocks from the renaissance zone and replacement of those blocks with other blocks. The bill allows the Department of Commerce, upon application by a city, to extend the duration of renaissance zone status in increments up to five years. The bill increases the total amount of income tax credits allowed for renaissance zone investments to $7,500,000. The bill is effective for taxable years beginning after December 31, 2008.

House Bill No. 1324 removes a statutory reference to the optional long-form income tax return, which the bill eliminates. The bill is effective for taxable years beginning after December 31, 2008.

House Bill No. 1436 changes a reference from the Legislative Council to Legislative Management to account for the changing of the name of the 17-member body previously referred to as the Legislative Council.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 41
Uniform Commercial Code
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 41. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

Senate Bill No. 2160, as part of the bill implementing regulation of residential mortgage brokers under the federal S.A.F.E. Act, corrects a cross-reference in Title 41.

Senate Bill No. 2206 amends a portion of the Uniform Commercial Code addressing secured transactions, providing that upon the filing of a termination statement with a filing office, the financing statement to which the termination statement relates ceases to be effective, including financing statements that indicate the debtor is a transmitting utility.

Senate Bill No. 2392 removes the filing fee under the portion of the Uniform Commercial Code addressing secured transactions which provided for a $1 fee per printed page for providing a copy of a filed instrument and increases the fee for the filing office provision of certified copies of filings on a particular debtor.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 42
Nuisances
Summary of Bills Enacted by 2009 Legislative Assembly

There was no 2009 legislation enacted which primarily affected North Dakota Century Code Title 42. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

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June 2009

TITLE 43
Occupations and Professions
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 43. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

The legislation relating to occupations and professions may be classified in these subject areas: abstracters, accountants, architects and landscape architects, contractors, dentists and dental hygienists, engineers and land surveyors, funeral service practitioners, marriage and family therapists, massage therapists, nurses, optometrists, pharmacists, physician assistants, private investigators, professional employer organizations, psychologists, real estate salespersons, social workers, and miscellaneous.

ABSTRACTERS

Senate Bill No. 2299 details the documents regarding utility easements which an abstracter shall furnish when providing an abstract to title to the surface of any surface tract of land, as well as the fees an abstracter may charge for related searches.

ACCOUNTANTS

House Bill No. 1147 modifies the law regulating the practice of accountancy, including implementing licensure mobility by recognizing determinations of "substantial equivalency" made by the National Association of State Boards of Accountancy National Qualification Appraisal Service, revising the firm licensure provisions, and removing the statutory examination score provision.

ARCHITECTS AND LANDSCAPE ARCHITECTS

House Bill No. 1330 updates the law regulating the practice of architecture and landscape architecture, including changing the name of the regulating board from the State Board of Architecture to the State Board of Architecture and Landscape Architecture, creating definitions of the terms "practice of architecture" and "practice of landscape architecture," revising the exceptions from the architecture and landscape architecture regulation laws, modifying the residency and practice requirements for board members, updating the powers and duties of the board, revising the education requirements, clarifying the licensure qualification requirements of a landscape architect may include examination, revising the reciprocity provisions, increasing the maximum licensure and renewal fees from $100 to $300, providing a forfeiture process for failure to renew a license, and repealing the Landscape Architect and Architect Advisory Committees.

CONTRACTORS

Senate Bill No. 2392 revises the law regulating contractors providing the application for renewal of a contractor's license will no longer require information regarding whether a performance bond was required for any of the contractor's projects completed during the preceding year.

DENTISTS AND DENTAL HYGIENISTS

House Bill No. 1176 makes extensive changes to the law regulating dental hygienists and dentists, including revising the dental hygienist licensure application, licensure qualification, license renewal, scope of practice, and disciplinary provisions; revising the dentist assistant registration application and registration renewal provisions; and revising the dentist licensure application, licensure qualification, license renewal, reexamination, inactive status, and disciplinary provisions.

Senate Bill No. 2358 creates a loan repayment program for dentists who practice in public health and nonprofit dental clinics and provides a $180,000 appropriation to the State Department of Health for the purpose of providing grants under the program.

ENGINEERS AND LAND SURVEYORS

Senate Bill No. 2268 makes extensive changes to the law regulating engineers and land surveyors, including replacing references to engineers and land surveyors in training with engineer and land surveyor interns; revising compensation for members of the State Board of Registration for Professional Engineers and Land Surveyors; revising registration as a professional engineer without examination; revising educational qualifications for

professional engineers, engineer interns, professional land surveyors, and land surveyor interns; revising the use of a seal; revising disciplinary actions; and revising the right to practice.

FUNERAL SERVICE PRACTITIONERS

House Bill No. 1116 updates the law regulating funeral service practitioners, including authorizing the State Board of Funeral Service to conduct information seminars, revising reciprocity licensure requirements and out-of-state licensed individuals from assisting North Dakota licensed funeral practitioners, revising the late renewal provisions for licenses, and increasing the annual funeral establishment license renewal fee from $100 to $125.

MARRIAGE AND FAMILY THERAPISTS

Senate Bill No. 2152 modifies the law regulating marriage and family therapists, including creation of a new status--licensure of an associate marriage and family therapist; increasing the minimum licensure education requirements from a baccalaureate to a master's degree; extending the initial licensure application deadline for marriage and family therapists who were actively practicing in North Dakota before January 1, 2008; clarifying the board may adopt rules relating to reinstatement of lapsed licenses, voluntary termination, and emeritus status and that the board may establish a fee for the licensure examination; clarifying the board's authority to take disciplinary actions against applicants and licensees; and revising the penalty provision to provide practicing without a license is a criminal offense.

MASSAGE THERAPISTS

Senate Bill No. 2099 revises the law regulating the practice of massage, including redefining "massage," defining "remote education," authorizing instead of mandating that the Board of Massage inspect massage establishments, modifying the continuing education requirements from 18 credits annually to 32 credits biennially and clarifying the requirements for continuing education attained by remote means, providing for a civil penalty for violation of the massage regulation laws and rules, increasing the board member per diem from $62 to a maximum of $100, and clarifying the reciprocity requirements for licensure.

NURSES

House Bill No. 1269 revises the State Board of Nursing's grounds for discipline clarifying the board may issue a nondisciplinary letter of concern to a licensee, registrant, or applicant and that the board has grounds to discipline a person that assisted in the practice of nursing without a current registration. The bill also limits the disciplinary actions the board may take against an unlicensed assistive person whose registration has expired.

Senate Bill No. 2094 provides the laws regulating the practice of nursing do not apply to an individual who is not registered by the State Board of Nursing who is providing medications as a direct training technician or a vocational training technician at the Developmental Center at Westwood Park, Grafton.

OPTOMETRISTS

Senate Bill No. 2164 provides an optometrist may provide a patient a drug sample at no cost to the patient and may sell contact lenses or ophthalmic devices that are classified by the United States Food and Drug Administration as a drug.

PHARMACISTS

House Bill No. 1091 modifies the law regulating the practice of pharmacy providing that annually a pharmacist shall complete at least 15 hours of continuing pharmaceutical education and authorizing a pharmacist to accept and dispense an oral transmission of a prescription transmitted by an authorized registered dental hygienist or a registered dental assistant.

Senate Bill No. 2039 repeals the laws that linked membership in the North Dakota Pharmaceutical Association with licensure by the State Board of Pharmacy, increases from five to seven the number of members on the State Board of Pharmacy by adding a registered pharmacy technician member and a public member, and decreases pharmacist license renewal fees to reflect the separation of the board from the association.

PHYSICIAN ASSISTANTS

Senate Bill No. 2180 adds Schedule II controlled substances to the types of medication a physician assistant may prescribe if delegated to do so by a supervising physician.

PRIVATE INVESTIGATORS

House Bill No. 1102 shortens from two years to one year the renewal period for private investigative and security licenses.

House Bill No. 1103 increases from $20 to $25 the maximum initial registration fee and increases from $5 to $25 the maximum renewal fee for private investigative service and private security service registrations.

Senate Bill No. 2113 provides a nonlicensed member, partner, officer, or owner of at least 10 percent interest in an entity may obtain a license or registration from the Private Investigative and Security Board.

PROFESSIONAL EMPLOYER ORGANIZATIONS

House Bill No. 1361 revises the professional employer organization licensure law, including replacing the current requirement that a professional employer organization submit to the Secretary of State a financial statement with a requirement that the professional employer organization maintain a bond, requiring that a professional employer organization provide the Secretary of State with a copy of the employer's quarterly contribution and wage report to Job Service North Dakota or to maintain an increased bond accordingly, authorizing the Secretary of State and the Attorney General to require that a professional employer organization provide a financial statement, and providing confidentiality provisions for records.

PSYCHOLOGISTS

House Bill No. 1145 updates the law regulating psychologists, including modifying the scope of practice of psychology, clarifying psychology residents who are completing postdoctoral supervised experience requirements are subject to continuing education requirements and to regulation by the State Board of Psychologist Examiners, increasing the maximum annual license fee from $100 to $150, simplifying the procedure for regulating psychologists who are licensed in other jurisdictions and the procedure for disciplining psychologists who have been disciplined in another jurisdiction, and modifying the doctoral degree education requirements for licensure as a psychologist and industrial-organizational psychologist.

REAL ESTATE SALESPERSONS

Senate Bill No. 2200 revises the continuing education requirements for real estate brokers and salespersons removing the statutory number of required credits and providing the State Real Estate Commission may establish the number of required credits, the frequency and conditions of reporting requirements, and all other terms and conditions of continuing education compliance.

SOCIAL WORKERS

House Bill No. 1093 modifies the law regulating the practice of social work providing that if a hospital, basic care facility, or skilled nursing facility employs a social work designee, that employer shall notify the North Dakota Board of Social Work Examiners of such employment arrangement and providing that for licensed independent clinical social worker post-master's clinical social work experiences that begin after July 31, 2009, the supervisor may not be a licensed certified social worker.

MISCELLANEOUS

House Bill No. 1024 revises the penalty provisions of several occupation and profession regulation laws in order to address overly broad criminal penalty provisions, including the laws regulating chiropractors, pre-need funeral services providers, water conditioning contractors and installers, sewer and water installers, real estate professionals, massage therapists, hearing aid dealers, occupational therapists, social workers, respiratory care practitioners, addiction counselors, and clinical laboratory personnel.

Senate Bill No. 2227 modifies the medical personnel loan repayment program increasing the maximum award from $10,000 to $30,000, removing the limitation on the number of recipients who participate in the program, and modifying the eligibility requirement limitations relating to practice within the state before application.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 44
Offices and Officers
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 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: public officers, open meetings and open records, and notaries.

PUBLIC OFFICERS

House Bill No. 1530 requires any individual appointed by an elected official and any individual who is appointed by the Governor and required to file a statement of interests to take the civil oath required by the Constitution of North Dakota before undertaking the duties of the office to which that individual was appointed.

Senate Bill No. 2353 increases the in-state lodging reimbursement for state officers and employees from $55 per night plus taxes to an amount established by policy by the director of the Office of Management and Budget plus applicable taxes. The bill requires the director of the Office of Management and Budget to establish a policy to set lodging reimbursement at an amount not to exceed 90 percent of the rate established by the United States General Services Administration for lodging reimbursement in this state.

Senate Bill No. 2064 increases the in-state lodging reimbursement for state officers and employees from $55 per night plus taxes to an amount established by policy by the director of the Office of Management and Budget plus applicable taxes. The bill requires the director of the Office of Management and Budget to establish a policy to set lodging reimbursement at an amount not to exceed 90 percent of the rate established by the United States General Services Administration for lodging reimbursement in this state.

House Bill No. 1369 authorizes the governing body of a political subdivision to remove from office any individual the governing body has appointed to any office, board, or commission for misconduct, malfeasance, crime in office, or neglect of duty or for habitual drunkenness or gross incompetence after notice and opportunity for hearing. The bill was declared to be an emergency measure and became effective upon filing with the Secretary of State on March 13, 2009.

House Bill No. 1162 prohibits a state entity or a political subdivision from purchasing a flag of the United States of America unless the flag was manufactured in the United States of America.

OPEN MEETINGS AND OPEN RECORDS

House Bill No. 1220 exempts from the definition of a meeting emergency operations during a declared disaster if a quorum of the members of the governing body are present but are not discussing public business as the full governing body or as a task force or working group.

Senate Bill No. 2172 provides that any record containing the work schedule of employees of a law enforcement agency is an exempt record. The bill also provides that a request for public records by a party to an arbitration must comply with applicable discovery rules or orders.

Senate Bill No. 2259 authorizes a political subdivision to establish procedures for providing access from an outside location to any computer database or electronically filed or stored information maintained by the political subdivision.

House Bill No. 1127 repeals a provision addressing the public access of records relating to year 2000 processing information.

House Bill No. 1436 revises references with respect to the access to certain legislative and Legislative Council records to reflect the name change of the 17-member Legislative Council to Legislative Management.

NOTARIES

Senate Bill No. 2322 prohibits a notary public from notarizing a document if the name of the notary or the spouse of the notary appears on the document as a signatory to a petition filed with the state or a political subdivision. The bill also prohibits a notary public from notarizing a document if the notary did not obtain satisfactory evidence of the identity of the signer of the document, unless the signer is personally known to the notary. The bill authorizes the Secretary of State to deny, revoke, or suspend a notary commission if the notary violates any provision of law relating to the regulation of notaries.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 45
Partnerships
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 45. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

House Bill No. 1298, as part of a bill that makes updates, technical clarifications, numerical changes, and grammatical changes to the limited partnership, fictitious partnership names, general partnership, limited liability partnership, and limited liability limited partnership laws, makes substantive changes to the partnership laws, including changes to the definition of "notice" as it relates to the limited partnership, general partnership, limited liability partnership, and limited liability limited partnership laws, addressing use of a nationally recognized delivery service to provide notice; changes the definition of "organization" as it relates to the limited partnership, general partnership, limited liability partnership, and limited liability limited partnership law, addressing the exclusion of nonprofit limited liability companies; modifies the limited partnership law regarding the use of remote communicated revocation of proxies; amends the remedies available to a judgment creditor of a partner in a limited partnership; provides the Secretary of State may cancel a certificate of fictitious partnership name of a limited partnership, limited liability partnership, or limited liability limited partnership that has ceased to exist for six months; and expands the registration requirements for a limited liability partnership engaged in farming or ranching or which owns or leases land used for farming or ranching.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 46
Printing Laws
Summary of Bills Enacted by 2009 Legislative Assembly

There was no 2009 legislation enacted which primarily affected North Dakota Century Code Title 46. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 47
Property
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 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.

Senate Bill No. 2250 adds construction liens to liens to which a homestead is subject to execution or forced sale in satisfaction of judgments.

House Bill No. 1301 provides for manufactured homes to be treated as real property when permanently affixed to real property.

Senate Bill No. 2171 allows for the termination of a residential lease by a victim of domestic violence. In addition, the bill provides that the tenant is responsible for the rent payment for the full month in which the tenancy terminates and an additional amount equal to one month's rent, subject to the landlord's duty to mitigate.

House Bill No. 1039 increases the homestead exemption from $80,000 to $100,000 and defines contiguous for the purposes of defining the lots and tracts of a homestead to include two or more tracts of real property which share a common point or which would share a common point but for an intervening road or right of way. In addition, the bill limits the protection of the proceeds of a forced sale of a homestead for a period of one year from the date of the conveyance.

Senate Bill No. 2176 allows when a lease in real property is terminable at the pleasure of one of the parties, the surviving lessee or the estate of the decedent who was a lessee of real property for residential purposes to terminate the lease on the last day of the month in the month following the death of the lessee unless the lease term expires before that time.

Senate Bill No. 2234 changes the instruments that are entitled to be recorded without acknowledgment to an instrument issued by a governmental entity, an instrument certified by a governmental entity, a lis pendens or other instrument that is signed by an attorney at law and bears the attorney's identification number, an affidavit that bears a jurat or verification upon oath or affirmation, a Uniform Commercial Code financing statement, or a plat signed by a land surveyor.

House Bill No. 1042 creates a new chapter relating to eviction that was previously located in Title 33.

House Bill No. 1045 removes the right of taking game from land burdens or servitudes upon land that may be attached to other land as incidents or appurtenances and then are called easements and removes the same from servitudes upon land that may be granted and held but do not attach to the land.

Senate Bill No. 2235 deems a lender contacted at the last-known address that does not refuse or approve of proposed amendments to condominium bylaw amendments to have approved the amendments, notwithstanding any requirement to the contrary in the condominium declaration or bylaws. In addition, the bill is limited to proposed amendments that do not affect the lender's right to enforce the terms of the mortgage.

House Bill No. 1137 lists requirements needed for an agreement with an owner of unreported unclaimed property to locate, deliver, recover, or assist in the recovery of property and includes that the agreement must be in writing, list the nature of the property, describe the services, state the value of the property, describe the fee, be signed by the apparent owner, state that the person could recover the property without charge from the state-administered program, and provide contact information for the state-administered unclaimed property program.

House Bill No. 1156 requires a security deposit that remains unclaimed for more than one year to be presumed abandoned and changes the types of security deposit from a deposit made by a subscriber of a utility to a deposit made in advance by a person to secure an agreement for rights or services.

House Bill No. 1232 allows two persons to be joint custodians for property of a minor and presumes that each joint custodian may act alone with respect to the custodial property and if either joint custodian is no longer a custodian, then the remaining joint custodian becomes the sole custodian under the Uniform Transfers to Minors Act.

Senate Bill No. 2282 requires a franchisee to provide certain information to the Secretary of State to use a licensed trade name and that information includes the name and address of the franchisee, the trade name licensed to the franchisee, the address of each place of business that will display the unregistered trade name, the name and address of the franchisor or other licensor, and any other additional required information. In addition, the bill provides that a trade name licensed to a franchisee which is not registered is not entitled to any trade name protection. In addition, the bill provides for an amendment to trade name registration and for a cancellation of any registration with the Secretary of State by the personal representative of the registrant's estate.

Senate Bill No. 2233 allows a change in the name or identity of a corporate mortgagee or an assignee of the mortgagee to be specified in the body of the instrument the merger, consolidation, amendment, or conversion causing the change in the name or identity to be in recordable form, to be prima facie evidence that the facts stated in it with respect to the merger, consolidation, amendment, or conversion, and for the county recorder to rely upon it to assign, satisfy, or release the mortgage. In addition, the bill requires an assignment, satisfaction, or release to be recorded in the office of the county recorder and makes that document sufficient if the assignment, satisfaction, or release is in recordable form, is executed by the mortgagee or the third party, or a mortgage is granted to a mortgagee as nominee or agent for a third party identified in the mortgage. The bill requires the county recorder to rely upon the preceding to assign, satisfy, or release the mortgage. The bill applies to any mortgage assignment, satisfaction, or release executed, recorded, or filed at any time.

Senate Bill No. 2236 creates a presumption that the trustee of a trust that holds title to real property and may sell, convey, and encumber the property unless restrictions on that power appear in the records of the county recorder.

Senate Bill No. 2139 vests in the owner of the overlying surface estate title to pore space and all strata underlying the surface of lands and waters and provides that conveyance of title to the surface of real property conveys the pore space and that pore space may not be severed from the title to the surface.

House Bill No. 1071 adds the situation in which an operator fails to pay oil or gas royalties to an unleased mineral interest owner within 150 days from initial oil or gas production from the unleased mineral owner's mineral interests within the requirement that the interest on unpaid royalties is 18 percent per annum until paid. In addition, the bill provides that this does not apply when a mineral owner cannot be located after reasonable inquiry by the operator.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 48
Public Buildings
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 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. 1436 changes references from the Legislative Council to the Legislative Management to account for the name change of the 17-member body previously called the Legislative Council.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 49
Public Utilities
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 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.

House Bill No. 1449 requires the Public Service Commission to adopt rules governing the decommissioning of commercial wind energy conversion facilities and the rules must address present and future natural resource development. In addition, the bill requires the facility owner or operator of a commercial wind energy facility to record the location of any portion of underground foundation not removed during decommissioning with the county recorder.

Senate Bill No. 2413 includes a generation system that consumes wellhead gas that would otherwise be flared, vented, or wasted within the definition of renewable and recycled energy for energy credit tracking and trading by the Public Service Commission.

House Bill No. 1436 changes from the Legislative Council to Legislative Management the body that appoints one member representing the House and one member representing the Senate as initial incorporators to the nonprofit corporation governing the One-Call Notification Center.

House Bill No. 1032 exempts from the energy conversion and transmission facility siting jurisdiction of the Public Service Commission construction conducted within the same footprint previously for which a certificate or permit was granted if the new activities do not affect any known exclusion or avoidance area. The bill requires that if activities are expected to affect a known avoidance area the utility must certify in writing to the commission that the activities will not affect any known exclusion area and that the utility will comply with all previous applicable conditions and protections. The bill requires that if the activities are expected to impact an avoidance area the utility must notify the commission in writing and provide information on the specific avoidance area and reasons why impacts cannot be avoided and requires the utility to receive the commission's written approval. In addition, the bill exempts a transmission line that is less than one mile long from siting jurisdiction, a gas or liquid transmission line in a pipe with an outside diameter of four and one-half inches or less that will not be trenched and will not be plowed in with a power mechanism having a vertical knife or horizontally directionally drilled, and a pipeline that is less than one mile long from siting jurisdiction.

House Bill No. 1008 increases the annual salary of a commissioner to the Public Service Commission to $85,830 through June 30, 2010, and $90,122 thereafter, from a previous salary of $81,743.

Senate Bill No. 2132 changes the title of the president of the Public Service Commission to the chairman of the Public Service Commission.

House Bill No. 1342 classifies railroad crossings as public railroad crossings and private railroad crossings and requires that a warning device on the lead locomotive must be sounded when approaching a public railroad crossing and not be sounded at a private railroad crossing; however, a party may petition the Public Service Commission to request that a horn be sounded at a private railroad crossing. In addition, the bill allows a locomotive engineer to sound a locomotive horn at any crossing to provide warning to animals, vehicle operators, pedestrians, trespassers, or crews of other trains in an emergency situation.

House Bill No. 1353 requires that if relocation, change, or removal of a facility required by governmental action impacts the cost of essential telecommunications services, the cost must be fully reflected in the price for those services and allows those increases to be immediate.

Senate Bill No. 2137 requires that application fees from public utilities be deposited in a special account and the money deposited is appropriated on a continuing basis to the Public Service Commission to pay expenses incurred in the processing of cases in which the application fees are required and the commission shall refund the portion of the fee which exceeds the expenses.

Senate Bill No. 2297 defines distribution lines for purposes of taxation of generation, distribution, and transmission of electric power.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 50
Public Welfare
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 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, child support enforcement, child abuse and neglect, foster care, child care facilities, long-term care and related facilities, and miscellaneous.

DEPARTMENT OF HUMAN SERVICES PROGRAMS

House Bill No. 1012 relates to the medical assistance program. The bill removes the income level requirement for medical assistance for minors and provides that the Department of Human Services is required to establish the income levels for minors at amounts that are not less than is required by federal law.

House Bill No. 1044 requires the Department of Human Services to develop a program for services to transition-aged youth at risk. The bill provides that the program must include individualized assessments, coordinated services, self-advocacy training, vocational rehabilitation, in-home support, and independent living skills training. The bill provides for the use of a wraparound planning process.

House Bill No. 1144 provides that unless prohibited by federal law, individually identifiable information concerning an individual applying for or receiving assistance under a program administered by the Department of Human Services may be used and disclosed in accordance with the program's participation in the department's master client index data matching system.

House Bill No. 1157 relates to the medical assistance estate collections requirements as it relates to the "clawback" payment required by federal law through the implementation of Medicare Part D. A clawback payment is a state payment to the federal government for the state share of prescription drug benefits for those eligible for both Medicare and Medicaid. The bill makes changes intended to ensure that estate collections for the clawback payments are only secured for months in which a clawback payment was made.

House Bill No. 1385 increases the number of members on the Drug Use Review Board from 16 to 17. The bill provides that the member who is appointed to the new position on the board must be a pharmacist or physician who represents the generic pharmaceutical industry and who is appointed by the Generic Pharmaceutical Association. The bill also revises the list of drugs that the Department of Human Services may not authorize under the prior authorization program.

House Bill No. 1477 increases from $5,000 to $6,000 the exempt amount of designated pre-need funeral services contracts which is used in considering eligibility for medical assistance.

House Bill No. 1540 provides that the formula for the state reimbursement of locally administered economic assistance programs in counties in which the percentage of that county's average total supplemental nutrition assistance program caseload for the previous fiscal year which reside on federally recognized Indian reservation lands is 10 percent or more.

Senate Bill No. 2158 provides that the medical assistance program must recognize advanced registered nurse practitioners as primary care providers with the same rights and responsibilities given primary care physicians under the medical assistance program. The bill requires that any care provided by the advanced registered nurse practitioner as a primary care provider under the medical assistance program must be within the scope of the advanced registered nurse practitioner's license.

Senate Bill No. 2174 provides for the creation of an Autism Spectrum Disorder Task Force that consists of the State Health Officer, the director of the Department of Human Services, the director of special education, and the executive director of the Protection and Advocacy Project, and 10 members appointed by the Governor. Under the bill the task force is required to examine early intervention services, family support services that would enable an individual with autism spectrum disorder to remain in the least restrictive home-based or community setting,

programs transitioning an individual with autism spectrum disorder from a school-based setting to adult day programs and workforce development programs, the cost of providing services, and the nature and extent of federal resources that can be directed to the provision of services for individuals with autism spectrum disorder. The task force is required to develop a state autism spectrum disorder plan and present the plan to the Governor and the Legislative Council before July 1, 2010.

Senate Bill No. 2198 requires the Department of Human Services to provide outreach services and conduct public awareness efforts regarding the prevention and identification of traumatic brain injury. The bill also directs the department to contract with public or private entities for the provision of informal supports to individuals with traumatic brain injury, to provide for or contract for the provision of social and recreational services for individuals with traumatic brain injury, and to provide or contract for the provision of increased and specialized vocational rehabilitation and consultation to individuals with traumatic brain injury.

Senate Bill No. 2231 directs the Department of Human Services to contract with a statewide charitable food recovery and distribution organization to develop and implement new methods of delivering charitable food assistance services in underserved counties; to expand the recovery of surplus food from the retail and wholesale food industry for distribution to charitable feeding programs; to provide training, technical assistance, and equipment grants to community food pantries and emergency meal programs; and to develop a cross-referral system between charitable feeding programs and government assistance programs that help clients achieve self-sufficiency.

Senate Bill No. 2260 requires the Department of Human Services, for the purpose of determining eligibility for temporary assistance for needy families (TANF), to exempt from assets and income the savings and proportionate matching funds in individual development accounts.

Senate Bill No. 2391 requires the Department of Human Services, in consultation with a nongovernmental entity that provides alternatives-to-abortion services, to contract to inform the public about the alternatives-to-abortion program.

Senate Bill No. 2423 provides that, with respect to private providers for individuals with developmental disabilities, the Department of Human Services is required to conduct a review of the audit and reimbursement process and a review and reconsideration of the 95 percent occupancy rule.

CHILD SUPPORT ENFORCEMENT

House Bill No. 1038 authorizes the Department of Human Services to issue a restricted operator's license to an obligor or an individual who fails to comply with a subpoena which may be used only during that obligor's or individual's normal working hours.

House Bill No. 1175 relates to child support enforcement. This bill amends existing law related to mandatory data sharing agreements with financial institutions, the authority to issue administrative subpoenas, and the right to access records of government entities and public utilities to be in compliance with federal mandates and to preserve funding for the TANF and child support enforcement programs. The bill also clarifies the Department of Human Services' authority to write off uncollectible child support arrears, including medical support arrears that stem from a medical assistance assignment.

CHILD ABUSE AND NEGLECT

Senate Bill No. 2097 amends provisions relating to the confidentiality of child abuse and neglect reports. The bill provides that a report made under Chapter 50-25.1 which is made available to a person who is the subject of the report must protect the identity of the persons reporting or supplying information until the information is needed for use in an administrative proceeding arising out of the report. The bill also provides that the Department of Human Services' institutional review board must approve the bona fide research purpose for which information under Chapter 50-25.1 may be released.

FOSTER CARE

House Bill No. 1015 increases from $75 to $85 the amount a basic care or adult family foster care facility may charge in addition to the rate charged for services at that facility.

House Bill No. 1043 directs the Department of Human Services to contract for a dementia care services program in each area of the state served by a regional human service center to provide personalized care consultation services, training, and education relating to dementia; provides a $1.2 million general fund appropriation for the program; and provides for a report to the Legislative Council regarding the outcomes of the program.

House Bill No. 1094 relates to the placement of siblings in foster care. For purposes of Title 50, the bill amends the definition of family foster home for children to allow the Department of Human Services to make exceptions with respect to the placement of siblings in foster care homes.

House Bill No. 1095 authorizes the Department of Human Services to adopt rules regarding the denial or revocation of a foster care facility license if that facility houses or employs an individual who has a criminal record. The bill also authorizes the department to adopt rules to determine whether an individual or an individual's home is suitable for the adoption of any child through a child-placing agency. The bill also provides that the child-placing agency must require a criminal history record investigation on the owner and each employee of a child-placing agency who has direct contact with families or children.

CHILD CARE FACILITIES

House Bill No. 1090 includes the requirements of the child care assistance program. The bill provides that an individual who is in need of child care assistance may apply in writing to a county social services office. The bill also provides that the Department of Human Services is required to pay child care costs required as a result of participation in allowable activities by the eligible caretaker in a TANF household. The bill also provides that the department is required to pay a portion of child care costs required as a result of participation in allowable activities by the caretaker based on family size and countable income by applying a sliding fee schedule established by rules adopted by the department.

House Bill No. 1418 requires the Department of Human Services to provide voluntary, progressive training opportunities leading to credentials and supports for the early childhood care and education workforce. The bill requires the department to implement a voluntary quality improvement process for licensed early childhood facilities. The bill authorizes the department to provide a quality incentive payment and a higher reimbursement rate for child care assistance program payments to a participating early childhood facility. The bill also authorizes the department to provide supports and incentives to build child care capacity, including technical assistance and support to individuals who want to establish a new program or expand existing capacity and to provide grants to programs with a viable business plan to support early childhood facility development and expansion in areas with a demonstrated need.

House Bill No. 1472 provides for the creation of an Early Childhood Services Advisory Board. The board, which is composed of seven members who represent a broad-based geographically distributed membership, is appointed by the director of the Department of Human Services. The bill provides that the duties of the board include advising the department as the department conducts a review of all early childhood services rules and, on an ongoing basis, make recommendations to the department regarding changes and revisions to the early childhood services rules. The bill became effective on April 22, 2009.

Senate Bill No. 2162 makes various changes to the statutory provisions regarding early childhood services and the procedures for early childhood services licensure. The bill authorizes the Department of Human Services to require criminal history record checks, as the department determines appropriate, for applicants for early childhood services licensure, nonlicensed holders of a self-declaration, in-home providers, new staff members of those applicants, providers of an applicant, and a provider if the provider is providing early childhood services within the provider's home. The bill also authorizes the department to require criminal history record checks for employees of the department upon hiring and providers licensed by the department as foster care homes. The bill also allows for a process of self-declaration. Under the bill, a self-declaration is a voluntary documentation of an individual who provides early childhood services in a private residence for up to three children below the age of 24 months or for no more than five children through age 11. The bill also repeals Section 50-11.1-03.1, which related to a care check registry.

LONG-TERM CARE AND RELATED FACILITIES

House Bill No. 1214 authorizes the state of North Dakota by and through the Department of Human Services to convey land that is part of the Developmental Center at Westwood Park, Grafton, to the Grafton Park Board.

House Bill No. 1263 requires each assisted living facility to have clear, concise, and understandable tenancy criteria that is fully disclosed to all tenants, in writing, before the tenancy agreement is signed. The bill requires each assisted living facility to require the administrator of the facility to complete 12 hours of continuing education each year. The bill also requires each assisted living facility to maintain a record for each tenant which must include an initial evaluation to meet tenancy criteria; the tenancy agreement; a medication administration record, if applicable; and an itemized list of services provided for the tenant.

House Bill No. 1303 contains the factors considered in determining nursing home rates. The bill provides that for determining rates the Department of Human Services is required to include allowable bad debt expenses in an

amount not to exceed 180 days of resident care per year or an aggregate of 360 days of resident care for any one individual and include allowable bad debt expenses in the property cost category in the report year in which the bad debt is determined to be uncollectible.

House Bill No. 1307 relates to the nonallowable costs in nursing home ratesetting. The bill provides that education is a nonallowable expense unless the education was provided by an accredited academic or technical educational facility; the education expense was for materials, books, or tuition; the facility claims the education expenses in an amount not to exceed the lesser of one-half of the individual's education expenses or $3,750; and the amount of education expense for an individual claimed does not exceed $15,000. The bill also requires that an individual who receives educational assistance is required to commit to a minimum of 1,664 hours of employment after completion of the educational program for each year education assistance was provided by the facility.

House Bill No. 1327 requires the Department of Human Services to provide $200,000 in grant funds for the remodeling of a nursing facility. The bill provides that to receive a grant, a facility must use at least $50,000 of the grant to conduct a rent subsidy pilot project for at least four assisted living residents.

House Bill No. 1433 authorizes the Department of Human Services to provide for a special care rate to be paid to a nursing home that has a capacity of fewer than 31 licensed beds, was not previously a hospital with critical access designation after May 31, 2009, and is owned and operated by a nonstate governmental unit. The bill requires matching funds for the special care rate from municipal or county funds. The bill became effective on April 22, 2009.

House Bill No. 1556 requires the Department of Human Services to contract with an independent contractor to study the methodology and calculations for the ratesetting structure used by the department to reimburse public and private, licensed developmental disability and home and community-based services providers that serve medically fragile and behaviorally challenged individuals who meet certain criteria. The bill requires the Department of Human Services to report the outcomes and recommendations to the Legislative Council before September 1, 2010.

Senate Bill No. 2045 provides that there must be at least a 30-day written advance notice of any transfer or discharge of a resident from a nursing home, swing-bed hospital, or basic care or assisted living facility.

MISCELLANEOUS

House Bill No. 1436 changes the name of the Legislative Council to Legislative Management. The bill also distinguishes between the Legislative Management, which is the 17-member legislative body chosen biennially before the close of each regular legislative session, and the Legislative Council, which provides staff services to the Legislative Management.

Senate Bill No. 2363, which relates to activities of charitable organizations that solicit contributions, authorizes the Secretary of State or the Attorney General to request a copy of tax or information returns submitted by a charitable organization to the Internal Revenue Service for the period covered by the annual report that is submitted to the Secretary of State. The bill also updates the language with respect to registration requirements of the charitable organizations.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 51
Sales and Exchanges
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 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. 1184 clarifies that an individual reporting an incidence of suspected identity fraud may initiate a law enforcement investigation by contacting the local law enforcement agency in the jurisdiction of the individual's residence or any other jurisdiction in which any part of the offense occurred.

House Bill No. 1308, as part of the consumer credit report security freeze law, shortens the period of time within which a consumer reporting agency is required to temporarily lift a freeze on a consumer credit file after being requested to do so by the consumer.

Senate Bill No. 2160, as part of the bill implementing regulation of residential mortgage brokers under the federal S.A.F.E. Act, corrects a cross-reference.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 52
Social Security
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 52. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

The legislation relating to Social Security may be classified in these subject areas: unemployment compensation and Job Service North Dakota.

UNEMPLOYMENT COMPENSATION

House Bill No. 1362 directs Job Service North Dakota to follow certain procedures when responding to a staffing service's request to use the staffing service's unemployment compensation tax rate and to follow certain procedures when filing required notices and reports relating to staffing services.

Senate Bill No. 2101 provides that for purposes of unemployment compensation contribution rate calculations for new employers, for positive employer rate groups and for negative employer rate groups, calculations must be rounded to the nearest one-hundredth of 1 percent.

Senate Bill No. 2102 clarifies and increases the amount of the penalty that may be imposed against an employer that fails to timely submit to Job Service North Dakota the required unemployment compensation report of the employer's contribution and wages.

Senate Bill No. 2106 clarifies that for unemployment compensation eligibility calculations when the claimant left employment voluntarily and without good cause attributable to the employer and for calculations when the claimant was discharged for misconduct in connection with employment, the claimant shall demonstrate earnings for personal services in employment from and after the date of the unemployment compensation claim filing.

Senate Bill No. 2107 increases the number of employers that are required to file electronic contribution and wage reports for unemployment compensation by decreasing the required electronic filing threshold from those employers that employ more than 99 employees to those employers that employ more than 24 employees.

Senate Bill No. 2130 authorizes Job Service North Dakota to use money in the unemployment compensation federal advance interest repayment fund for the purpose of paying building lease costs of office facilities leased by Job Service North Dakota.

Senate Bill No. 2108 provides that as a condition of receipt of unemployment compensation benefits, the claimant shall complete all services assigned by Job Service North Dakota.

JOB SERVICE NORTH DAKOTA

House Bill No. 1117 authorizes Job Service North Dakota to sell state property located in Jamestown.

House Bill No. 1118 authorizes Job Service North Dakota to sell state property located in Fargo and Grafton.

House Bill No. 1121 modifies the calculation formula for the primary insurance benefit under the old-age and survivor insurance trust fund.

House Bill No. 1436, as part of the bill that changes the name of the Legislative Council to Legislative Management, corrects a reference to the Legislative Council's Legislative Audit and Fiscal Review Committee.

Senate Bill No. 2016 provides that Job Service North Dakota use 50 percent of the Workforce 20/20 funding appropriation for projects for new or expanding businesses in North Dakota.

Senate Bill No. 2078 repeals the law that provided for Job Service North Dakota to make grants to Job Training Partnership Act eligible students who are enrolled in adult basic and secondary education programs and training programs for adults approved by Job Service North Dakota.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 53
Sports and Amusements
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 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.

House Bill No. 1003 removes the limitation on the number of terms that a member of the Lottery Advisory Commission may serve.

House Bill No. 1194 provides that the maximum allowable value of a primary raffle prize for a raffle conducted with a local permit does not apply to raffles conducted under Chapter 20.1-08. The bill also provides that an eligible organization includes an organization authorized by the Secretary of State as a foreign corporation under Chapter 10-33. The bill provides that the foreign corporation, for purposes of charitable gaming, may not conduct a game other than a raffle under Chapter 20.1-08.

House Bill No. 1317 decreases from 4.5 percent to 3 percent the excise tax on the gross proceeds from the sale at retail of pull tabs.

House Bill No. 1367 increases the maximum allowable value of a primary raffle prize for a raffle conducted with a local permit from $2,500 to $6,000.

House Bill No. 1551 reduces the amount of gaming taxes the horse racing licensee is required to pay the state. The bill also provides that of the amount due for all unclaimed tickets and breakage, 20 percent is to be deposited into the racing promotion fund, 30 percent is to be deposited into the breeders' fund, and 50 percent is to be deposited into the purse fund.

Senate Bill No. 2024, which was vetoed by the Governor, relates to the powers and duties of the Racing Commission. The bill would have provided that the commission is established in the office of the Agriculture Commissioner. The bill would have changed the authority for the appointment of the commission members from the Governor to the Agriculture Commissioner. The bill would have provided that the commission is responsible for the aspects of the horse racing industry which deal with live racing. The bill would have transferred from the commission to the Attorney General the authority for the regulation and enforcement of pari-mutuel wagering. The bill also would have lowered the gaming taxes the licensee is required to pay the state. All provisions of the bill other than the changes to the tax structure would have become effective on July 1, 2011.

Senate Bill No. 2091 provides that the Attorney General rather than the State Treasurer is responsible for depositing gaming and excise taxes in the state treasury.

Senate Bill No. 2215 defines net income as gross proceeds less cash prizes, cost of merchandise prizes, and expenses to conduct the gaming activity. The bill also clarifies that various interest, penalties, and taxes apply to licensed organizations.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 54
State Government
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 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

House Bill No. 1178 authorizes the Legislative Council to establish a policy under which a member of the Legislative Assembly who has paid a computer usage fee to purchase the computer used by that member for the appraised or market value of the computer upon replacement of the computer by the Legislative Council. The bill provides that funds received from the sale of any computer must be deposited in the legislative services fund.

Senate Bill No. 2064 increases the session compensation for members of the Legislative Assembly from $135 per day to $141 per day from August 1, 2009, through July 1, 2010, and to $148 per day thereafter. The bill changes session lodging reimbursement for members of the Legislative Assembly from a maximum of $900 per month to an amount established by the director of the Office of Management and Budget. The bill requires the director of the Office of Management and Budget to set the maximum monthly reimbursement amount on August 1 of each even-numbered year at an amount equal to 30 times 55 percent of the daily lodging reimbursement in effect on that date for state employees and officers. The bill increases the monthly biennium compensation for members of the Legislative Assembly from $378 to $396 from August 1, 2009, through July 1, 2010, and to $415 thereafter. The bill increases the compensation for members of the Legislative Assembly for attendance at interim committee meetings from $135 per day to $141 per day from August 1, 2009, through July 1, 2010, and to $148 thereafter. The bill changes the state officer and employee mileage reimbursement to an amount established by rules adopted by the director of the Office of Management and Budget, which must be at the same rate as established by the United States General Services Administration. The bill changes the mileage reimbursement for state officers and employees who travel by private airplane to a sum equal to one and one-half times the mileage reimbursement established for travel by motor vehicle.

State Employees and Officers

House Bill No. 1029 establishes statutory requirements for state employee service awards, employer-paid tuition, and employer-paid professional organization membership and service club dues. The bill provides that executive branch agencies having employees in the classified service are subject to rules adopted by Human Resource Management Services and approved by the State Personnel Board and the Legislative Council's Administrative Rules Committee. The bill requires each executive branch agency, excluding an institution of higher education, which has employees who are not in classified service and which establishes rules or policies relating to employee service awards, employer-paid tuition, or employer-paid professional organization membership and service club dues to submit the rules or policies to the Office of Management and Budget for review and comment. The bill also requires the agency to submit the rules or policies to the Administrative Rules Committee for approval after addressing any comments from the Office of Management and Budget. The bill provides that expenditures for state employee service awards, employer-paid tuition, and employer-paid professional organization membership and service club dues are not a gift for purposes of Section 18 of Article X of the Constitution of North Dakota.

House Bill No. 1030 increases the state employee performance bonus limitation from $1,000 per biennium to $1,000 per fiscal year and authorizes Human Resource Management Services to approve pay bonuses above the 25 percent limitation upon a showing of special circumstances.

House Bill No. 1031 defines "hard-to-fill occupation" for purposes of the state recruitment and retention bonus program as an occupation or position in which demand exceeds supply, special qualifications are required, competition with other employers is the strongest, there is a risk of losing an incumbent with rare skills, the position is filled by a highly skilled employee who is in high demand in the marketplace, loss of the employee would result in significant replacement costs, the position is filled by key personnel, or the position has other unique recruitment or retention issues identified and documented by the appointing authority.

House Bill No. 1181 authorizes the executive officer in charge of a state agency or the governing body of a political subdivision to grant a leave of absence to a full-time employee of that agency or political subdivision who is a volunteer member of the North Dakota Army or Air National Guard in the event of a declared disaster or

emergency. The bill also authorizes a grant of a leave of absence for a search emergency by the Air Force Rescue Coordination Center or by the Department of Emergency Services. The bill was declared to be an emergency measure and became effective upon filing with the Secretary of State on March 24, 2009.

House Bill No. 1016 increases the cumulative leave an emergency service volunteer may be granted by a state agency or political subdivision from 10 working days to 20 working days during any calendar year. The portion of the bill making this change was declared to be an emergency measure and became effective upon filing with the Secretary of State on May 19, 2009.

Governor and Lieutenant Governor

House Bill No. 1001 increases the salary of the Governor from $100,031 to $105,034 through June 30, 2010, and to $110,285 thereafter. The bill increases the salary of the Lieutenant Governor from $77,655 to $81,538 through June 30, 2010, and to $85,615 thereafter.

House Bill No. 1463 establishes a North Dakota Youth Council consisting of 16 individuals appointed by the Governor, 4 members of the Legislative Assembly, and the Lieutenant Governor. The bill requires the Youth Council to develop a list of issues and concerns pertinent to residents of the state who have not yet reached the age of 25. The Youth Council is required to provide a report and recommendations to the Legislative Council before September 10, 2010. The bill is effective until July 1, 2011.

House Bill No. 1025 changes a statutory citation to the North Dakota Dairy Promotion Commission to account for the recodification of the provisions relating to the commission.

House Bill No. 1042 eliminates an obsolete reference to the Administrator's Professional Practices Board.

Secretary of State

House Bill No. 1002 increases the salary of the Secretary of State from $79,571 to $83,550 through June 30, 2010, and to $87,728 thereafter.

Senate Bill No. 2392 provides that if any payment of a filing fee presented to the Secretary of State is not honored or paid, or if no lawful form of payment accompanies a filing, any record of credit or payment must be canceled or reversed and the filing or action is void. The bill changes the filing fee that the Secretary of State may charge for a copy of a law, resolution, or other document on file in the Secretary of State's office from $1 for every four pages to 50 cents per page.

State Auditor

House Bill No. 1004 increases the salary of the State Auditor from $79,571 to $83,550 through June 30, 2010, and to $87,728 thereafter.

House Bill No. 1129 increases the hourly rate the State Auditor may charge a political subdivision for reviewing an audit report from $50 to $80. The bill provides that the State Auditor may require a city with a population under 500 to submit an annual report rather than a biennial audit. The bill removes language that requires the State Auditor to assume and exercise supervision over the books and financial accounts of the state agencies the State Auditor is required to audit. The bill also repeals a provision that requires the State Auditor to audit a county upon the request of a board of county commissioners. The bill was declared to be an emergency measure and became effective upon filing with the Secretary of State on April 29, 2009.

Senate Bill No. 2295 provides that the State Auditor may require a city with a population under 500 to submit an annual report rather than a biennial audit.

House Bill No. 1148 provides that upon request of the state court administrator, the State Auditor must audit clerk of district court services provided by a county.

State Treasurer

Senate Bill No. 2012 revises the distribution formula for the highway tax distribution fund. The bill requires the State Treasurer to transfer the first $5,500,000 per biennium from the fund to the state highway fund for the purpose of providing administrative assistance to other transferees. The bill requires that the remaining funds must be transferred as follows: 61.3 percent must be transferred monthly to the Department of Transportation and placed in the state highway fund, 2.7 percent must be transferred monthly to the township highway fund, 1.5 percent must be transferred monthly to the public transportation fund, and 34.5 percent must be allocated to the counties of the state in proportion to the number of motor vehicle registrations credited to each county. The bill

requires each county, city, and township to provide the Tax Commissioner an annual report on funding and expenditures relating to transportation projects and programs.

House Bill No. 1130 provides that the allocation to counties of highway tax distribution fund money must be in proportion to the number of vehicle registrations in each county rather than the number of motor vehicle registrations.

House Bill No. 1005 increases the salary of the State Treasurer from $75,143 to $78,900 through June 30, 2010, and to $82,845 thereafter.

Senate Bill No. 2135 requires the State Treasurer to correct underpayments, overpayments, or erroneous payments in a timely manner and allows the State Treasurer to determine whether an adjustment of an insignificant amount need be made. The bill requires the State Treasurer to adopt a policy to determine what is considered an insignificant amount. The bill authorizes the State Treasurer to promote access to financial education tools that can help residents of the state to make wiser choices in all areas of personal financial management.

Senate Bill No. 2145 repeals a provision that requires the State Treasurer upon presentation of any bond issued or assumed by the state and upon application in writing by the owner of the bond, to register the bond in the name of the owner.

House Bill No. 1168 repeals a provision that states that the registration of bonds by the State Treasurer vests the ownership of the bonds, both principal and interest, in the person in whose name the last registration is made.

House Bill No. 1115 removes the requirement that the State Treasurer maintain a record, also maintained by the Office of Management and Budget, of the total amount appropriated for each state office or agency, the amount equal to 75 percent and 25 percent of the total appropriated, and the amount expended and on hand.

Attorney General

House Bill No. 1003 increases the salary of the Attorney General from $87,351 to $91,719 through June 30, 2010, to $96,304 through December 31, 2010, to $113,266 through June 30, 2011, and to $130,228 thereafter.

House Bill No. 1306 authorizes the Attorney General to establish a statewide 24/7 sobriety program and establishes program guidelines and fees. The bill authorizes a district or municipal court to order an offender charged with a violation of driving under the influence of alcohol or drugs, domestic violence, abuse or neglect of a child, or other offense in which alcohol or controlled substances are involved to participate in the 24/7 sobriety program as a condition of bond. The bill creates a 24/7 sobriety program fund and provides a continuing appropriation for the use of money in that fund. The bill appropriates $100,000 from the general fund to the Attorney General for the purpose of the 24/7 sobriety program.

House Bill No. 1127 repeals provisions and removes references to the drug enforcement unit.

Emergency Commission

House Bill No. 1027 allows the Budget Section, based on a recommendation from the Emergency Commission, to authorize state agencies to hire full-time equivalent positions in addition to those authorized by the Legislative Assembly. The bill was declared to be an emergency measure and becomes effective on July 1, 2009.

Industrial Commission

Senate Bill No. 2018 requires the Industrial Commission to transfer 5 percent of the net income earned by the Mill and Elevator during each fiscal year to the agricultural fuel tax fund.

Senate Bill No. 2129 combines the provisions relating to the biomass incentive and research program with the renewable energy program. The bill exempts the energy-related programs of the Renewable Energy Council from state procurement laws and the business incentive reporting requirement. The bill defines "advanced biofuel" for the purposes of the Renewable Energy Council law. The bill includes on the Renewable Energy Council a member with a substantial interest in biofuel and sugar-based biofuel. The bill provides that any financial assistance provided by the Industrial Commission for a renewable energy project may not be the sole support of the project and must be conditioned on the assurance that the applicant or a third party will support the project by either monetary or nonmonetary means.

Senate Bill No. 2127 removes the $250,000 limitation with respect to financing provided under the first-time farmer finance program. The bill also replaces the $200,000 net worth maximum for participation in the first-time farmer finance program with an amount established by the loan policy, which may not exceed the requirement of the

beginning farmer revolving loan program. The bill revises the definition of "substantial farmland" for purposes of the first-time farmer finance program by removing the limitation on fair market value of the parcel of land.

House Bill No. 1165 provides that the mobile home and manufactured housing finance program may provide assistance in the development of low-income to moderate-income housing or to otherwise assist a developing community address an unmet housing need or alleviate a housing shortage.

House Bill No. 1383 authorizes the North Dakota Pipeline Authority to participate in and provide funding for interconnection pipeline systems.

Senate Bill No. 2014 revises the declaration of findings and public purpose regarding the lignite industry in the state.

House Bill No. 1123 removes the requirement that the Industrial Commission approve leases of state-owned property.

State Building Code

Senate Bill No. 2354 provides that neither the State Building Code nor a building code adopted by a city, township, or county may include a requirement that fire sprinklers be installed in a single family dwelling or a residential building that contains no more than two dwelling units.

Senate Bill No. 2352 requires standards for energy conservation to be included in the State Building Code.

State Radio

Senate Bill No. 2163 repeals provisions relating to the State Radio broadcasting system and reenacts similar provisions within Chapter 37-17.3.

Crime Victims Compensation

Senate Bill No. 2111 increases from $3,000 to $5,000 the maximum amount that may be paid by the Department of Corrections and Rehabilitation to cover the funeral, cremation, and burial expenses of a crime victim.

Legislative Council

House Bill No. 1436 changes the name of the 17-member Legislative Council to Legislative Management.

Senate Bill No. 2001 increases the additional compensation for legislative majority and minority leaders and the chairman of the Legislative Council from $270 per month to $284 per month effective July 1, 2009, and to $298 per month effective July 1, 2010.

The bill also would have required the Legislative Council, during each biennium, to appoint a Legislative Budget Committee consisting of 16 members to coordinate and direct activities involved in the development of budget recommendations. The bill would have required that the agenda of each organizational session of the Legislative Assembly include a report of the Legislative Budget Committee. The bill would have required the head of each budget unit to submit budget estimates to the Legislative Council by July 15th of each even-numbered year and would have required the director of the budget to submit drafts of proposed amendments to appropriation bills. The provisions of the bill relating to the Legislative Budget Committee and the submission of budget estimates and proposed amendments to appropriation bills were vetoed by the Governor after the adjournment of the legislative session.

House Bill No. 1060 extends the Committee on Tribal and State Relations through July 31, 2011.

Senate Bill No. 2029 extends the Commission on Alternatives to Incarceration through August 1, 2013. The bill was declared to be an emergency measure and became effective on March 19, 2009.

Senate Bill No. 2336 replaces the Garrison Diversion Overview Committee with a Water-Related Topics Overview Committee and requires the Legislative Council to appoint the Water-Related Topics Overview Committee during each interim through 2013.

Indian Affairs Commission

House Bill No. 1059 authorizes the Indian Affairs Commission to accept gifts, grants, donations, and services, and provides continuing appropriation authority to the commission to use any gifts, grants, and donations for the purposes of the commission.

Department of Human Services

Senate Bill No. 2198 for the purposes of diagnosis and treatment provided by the Department of Human Services, includes within the definition of a resident of the state veterans and nonveterans who have a traumatic brain injury.

Office of Management and Budget

House Bill No. 1015 requires the Office of Management and Budget to adopt rules establishing the terms under which an executive branch agency may charge a service fee for accepting a payment made by credit or debit card or an electronic fund transfer and authorizes the judicial branch to accept payment made by credit or debit card or an electronic fund transfer for any fees, costs, or other assessments imposed. The bill requires the director of the Office of Management and Budget, upon the request of a state agency, department, or board, to negotiate for, contract for, and obtain additional office space to accommodate the agency, department, or board if office space in the State Capitol becomes insufficient. The bill provides that the agency, department, or board for which the office space is sought must approve the office space before the director may finalize the contract or lease.

The bill would have required the head of each executive branch agency to report each month to the Office of Management and Budget the number of vacant full-time equivalent employee positions and related salary and fringe benefit savings and would have required the Office of Management and Budget to report at each Budget Section meeting on the cumulative savings resulting from the vacant positions. The Governor vetoed this provision of the bill after the adjournment of the legislative session.

Senate Bill No. 2038 continues through June 30, 2011, the authority for the North Dakota University System to continue at the end of the biennium unspent general fund appropriations and the requirement that the budget request and appropriation of the University System include block grants for a base funding component, an initiative funding component, and an asset funding component.

Senate Bill No. 2018 requires the Office of Management and Budget to develop and make publicly available an aggregate and searchable database website that includes biennial information listing each budget unit making expenditures, the amount of funds expended, the source of funds expended, the budget program of the expenditure, and any other information determined relevant by the director of the budget.

Senate Bill No. 2425 requires the director of the Office of Management and Budget to prepare and submit to the Legislative Council by October 1, 2010, a report including the location, expenses, and square footage requirements of all facilities occupied by each state agency. The bill provides that the report must include recommendations for relocation of any entity to achieve improvements in service and efficiencies and recommendations within the master plan for construction of buildings on the Capitol grounds.

House Bill No. 1460 authorizes state agencies to work with communities and stakeholders to develop proposed property or institution alternative use plans. The bill requires the Office of Management and Budget to introduce any statutory or constitutional changes necessary to implement the plans and request funding for grants to assist communities and institutions for up to the present value of the total estimated savings to the state for the next 10 years resulting from converting a property or institution to an alternative use.

Senate Bill No. 2131 authorizes the Office of Management and Budget to establish a program for the recycling and disposal of surplus property determined to be unsalable. The bill allows the Office of Management and Budget to assess and collect service charges from the entity from which the property was received to cover the direct and reasonable costs of the service.

House Bill No. 1067 exempts from the state classified service engineers and geologists employed by the director of mineral resources.

House Bill No. 1113 provides that the intent of the state classified service to assure fair and equitable treatment for state employees requires state agencies with employees in the classified service to adopt grievance procedures and requires the creation of a statewide appeals mechanism with primary jurisdiction to entertain and resolve classified employee appeals. The bill requires Human Resource Management Services to certify appeals from probationary employees in the classified service which are related to discrimination or reprisal.

Public Employees Retirement System

Senate Bill No. 2153 provides that of the three members of the Retirement Board elected from active participating members, the members may be participating in the Public Employees Retirement System plan, the defined contribution plan, the Highway Patrolmen's retirement system plan, or the Job Service North Dakota retirement plan. The bill authorizes payment of employee contributions on a pretax basis, instead of on an after-tax basis, for the judges' retirement system and Job Service North Dakota retirement plan via employer pickup under Internal

Revenue Code rules for compensation earned after August 1, 2009. The bill eliminates the 60-month option as a form of payment for surviving spouses in the hybrid plan. The bill allows members of the hybrid plan to elect a new monthly benefit that provides a graduated increase of 1 percent or 2 percent. The bill updates federal compliance provisions of the hybrid plan, including additional language to comply with Internal Revenue Code Section 415(d) and related regulations. The bill authorizes an employer to pay health or life insurance premiums for a permanent employee on an unpaid leave of absence.

House Bill No. 1173 authorizes the Public Employees Retirement System Board to create and implement an Internal Revenue Code Section 115 trust health care savings plan for all Supreme Court and district court judges participating in the Public Employees Retirement System if 75 percent of the total active participating judges vote to approve the program.

House Bill No. 1575 allows peace officers employed by the Bureau of Criminal Investigation to participate in the defined benefit retirement plan.

House Bill No. 1204 requires that the uniform group insurance program provided by the Public Employees Retirement System include medical benefits coverage for medical services related to injuries or illness resulting from intoxication.

Senate Bill No. 2154 increases the required monthly contribution to the retiree health benefits fund from 1.00 percent of monthly salary to 1.14 percent of monthly salary and increases the monthly retiree health credit from $4.50 per year of credited service to $5 per year of credited service. The bill requires that all payments for sick leave credit must be made within 60 days of termination of employment and before the member receives a retirement annuity unless the member has submitted an approved payment plan to the board.

Upper Great Plains Transportation Institute

Senate Bill No. 2128 adds a North Dakota member of the Dakota Transit Association as a member of the Advisory Transportation Council of the Upper Great Plains Transportation Institute.

Office of Administrative Hearings

House Bill No. 1464 requires the director of the Office of Administrative Hearings to file a report with the Governor and the State Advisory Council for Administrative Hearings by December 1 of each odd-numbered year which must provide information regarding all administrative hearings conducted by the Office of Administrative Hearings during the previous biennium. The bill also amends various statutory provisions to reconcile those provisions with the provisions of initiated measure No. 4, which was adopted at the 2008 general election. The bill eliminates Workforce Safety and Insurance's exemption from the use of the Office of Administrative Hearings for adjudicative proceedings and amends a statutory provision that includes within the state classified service employees of Workforce Safety and Insurance.

Information Technology Department

Senate Bill No. 2041 expands the membership of the Criminal Justice Information Sharing Board by adding nine members and provides that board members who are not state employees are entitled to compensation of $75 per day and expense reimbursement.

Senate Bill No. 2142 changes the requirement that each executive branch agency submit an information technology plan to the Information Technology Department by July 15 of each even-numbered year to a requirement that each executive branch agency participate in the information technology planning process and submit a plan to the department by August 15 of each even-numbered year. The bill exempts the State Board of Higher Education and the institutions of higher education from the requirement to provide information technology project startup information and project closeout information.

Senate Bill No. 2332 establishes a Health Information Technology Office within the Information Technology Department and establishes a Health Information Technology Advisory Committee to collaborate with and make recommendations to the Health Information Technology Office regarding implementing a statewide interoperable health information infrastructure. The bill creates an electronic health information exchange fund to be used to facilitate and expand electronic health information exchange. The bill was declared to be an emergency measure and became effective upon filing with the Secretary of State on May 19, 2009.

Department of Commerce

Senate Bill No. 2018 requires the Department of Commerce, Job Service North Dakota, the Department of Career and Technical Education, and the State Board of Higher Education to submit annual reports to the Division of Workforce Development which relate to the current workforce initiatives and activities of each agency and the

agency's plan for future workforce initiatives and activities. The bill also requires those agencies to present workforce-related budget initiatives for the upcoming biennium to the North Dakota Workforce Development Council by November 1st of each even-numbered year. The bill authorizes the Commissioner of Commerce, during the 2009-11 biennium, to designate a nonprofit corporation in the state which has the primary purpose of assisting North Dakota exporters for the provision of services for the International Business and Trade Office. The bill requires the Department of Commerce to maintain records of the number of internship, apprenticeship, and work experience opportunities subsidized by the department and establish a base level of funding for each recipient.

Senate Bill No. 2372 requires the Commissioner of Commerce to promote the development of life science industries in the state, including biotechnology, biomedical sciences, and biopharmaceuticals. The bill provides that if an entity owns or operates an animal or research facility, the ownership or operation does not violate the state corporate farming prohibitions if the Commissioner of Commerce annually certifies to the Secretary of State that the primary purpose of the facility involves the production of products for uses other than human food consumption and the facility is licensed or registered with the United States Department of Agriculture as required by the Animal Welfare Act, the facility has an assurance on file with the United States Public Health Service, or the facility is accredited by the Association for Assessment and Accreditation of Laboratory Animal Care.

Senate Bill No. 2110 removes the statutory requirement that the Division of Economic Development and Finance include a finance office and an international business and trade office. The bill requires the director of the Division of Economic Development and Finance to identify and coordinate sources of capital and financial assistance and administer programs for financial assistance placed under the administration of the division. The bill also makes revisions to the mission of the Division of Economic Development and Finance and the Division of Tourism. The bill requires the director of the Division of Tourism to work with industry groups to prepare a long-term strategic plan each biennium, coordinate designing the tourism side of the state highway map, and organize and coordinate other marketing activities and events aimed at increasing visitor volume. The bill removes statutory requirements that the Commissioner of Commerce and the Commerce Cabinet develop a list of economic development money included in the budget request of cabinet agencies. The bill requires the Commissioner of Commerce to administer a Rural Development Office to assist in the development of rural communities. The bill creates a North Dakota Rural Development Council composed of between 9 and 17 members. The bill eliminates the Motion Picture Development Office and removes the requirement that the Commissioner of Commerce report biennially to the Legislative Council regarding the process used and factors considered in identifying and updating target industries.

House Bill No. 1202 provides that an entrepreneurial center award granted by the North Dakota Development Fund, Inc., granted between August 1, 2009, and July 31, 2015, is not considered a business incentive.

Senate Bill No. 2260 requires the Department of Commerce Division of Community Services to allocate state funds to participating community action agencies to provide matching funds for eligible individual development accounts. The bill provides eligibility requirements and permissible uses for participating households.

Commission on Legal Counsel for Indigents

Senate Bill No. 2023 requires the Commission on Legal Counsel for Indigents to contract for public defender services at a minimum level of 50 percent of its biennial caseload.

House Bill No. 1146 provides that the Commission on Legal Counsel for Indigents must provide indigent defense services to eligible indigent individuals pursuant to the standards and policies of the commission governing eligibility for services.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 55
State Historical Society and State Parks
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 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.

House Bill No. 1018 appropriates $12,474,252 to the State Historical Society. The bill also appropriates $150,000 for a protective structure for a locomotive at Camp Hancock, $385,000 for a Fort Totten commissary storehouse exhibit and signage, and $150,000 for geographic information system scanning and integration from federal fiscal stimulus funds made available to the state under the federal American Recovery and Reinvestment Act of 2009, which provision is an emergency measure.

House Bill No. 1481 appropriates $39.7 million from the general fund and $12 million from federal or special funds to be raised by the State Historical Society for construction of an addition to the North Dakota Heritage Center. The bill provides that construction may not begin until the State Historical Society certifies to the Office of Management and Budget that of the federal or special funds required to complete the project, cash or pledges with a discounted cash value of at least $6 million has been received by the State Historical Society.

House Bill No. 1019 appropriates $12,605,505 to the Parks and Recreation Department and $2,728,454 to the International Peace Garden. The bill limits the duration of Parks and Recreation Department concession agreements to 20 years and revises the leadership and facilities grants program to allow the Parks and Recreation Department to use up to 5 percent of money made available to the department for the program for administration of leadership and facilities grants and to ensure completion of the projects funded. The bill also appropriates $300,000 for a Turtle River State Park pedestrian bridge, $200,000 for Turtle Mountain scenic byway acquisition and trails, and $300,000 for Fort Abraham Lincoln Civilian Conservation Corps building rehabilitation from federal fiscal stimulus funds made available to the state under the federal American Recovery and Reinvestment Act of 2009, which provision is an emergency measure.

Senate Bill No. 2309 requires the Parks and Recreation Department, State Historical Society, Game and Fish Department, and Tourism Division of the Department of Commerce to conduct a study of the feasibility and desirability of linking and improving a series of public sites along the Sibley and Sully historic trails for purposes of historical education, heritage tourism, and access for public hunting.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 57
Taxation
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 57. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to taxation may be classified in these subject areas: property taxes; income taxes; sales, use, and motor vehicle excise taxes; fuels taxes; oil and gas taxes; coal taxes; emergency services communication fees; and miscellaneous tax provisions.

PROPERTY TAXES

Senate Bill No. 2199 provides property tax relief by appropriating $295 million for the 2009-11 biennium for allocation to school districts to reduce school district property taxes. The bill provides for a reduction of up to 75 mills in school district property tax levies and replacement of the revenue to school districts through mill levy reduction grants. The bill eliminates authority for unlimited levy approval for school districts. The bill establishes a deadline of 2015 for school districts with existing voter-approved excess levies or unlimited levies to obtain voter approval for continuation of a levy of up to a specific number of mills. If voter approval is not obtained by 2015, the school district levy limitation will be subject to statutory provisions allowing a levy based on the number of dollars levied by the school district in the highest of the most recent three years or the 185-mill general fund levy limitation. The bill also provides for transfer of $295 million in 2010 from the permanent oil tax trust fund to the property tax relief sustainability fund to be used for property tax relief allocations after the 2009-11 biennium.

House Bill No. 1400 reduces from 18 percent to 12 percent the amount by which a school district may increase its general fund levy from the previous taxable year, within the 185-mill general fund levy limitation.

Senate Bill No. 2297 changes the taxation of rural electric cooperatives from a tax on gross receipts to a transmission line mile tax and a tax of $1 per megawatt-hour for retail sales to consumers in this state. Cooperative electrical generating plants will remain subject to coal conversion facilities taxes. The taxes are in lieu of real or personal property taxes and an option is provided for investor-owned utilities to opt-in to the taxing system established by the bill. Revenue from the taxes are allocated among political subdivisions based on the location and tax rate for transmission lines and, for distribution companies, are allocated equally based on retail sales locations and the location and tax rate for distribution lines.

Senate Bill No. 2247 increases from $75,000 to $150,000 the value of new single-family and condominium and townhouse residential property which may be exempted from property taxes by the city or county. The bill retains the length of the allowable exemption at up to two taxable years but changes the commencement of the two-year exemption from the year construction is begun to the year construction is completed and the residence is owned and occupied for the first time.

Senate Bill No. 2239 establishes a property tax exemption for new single-family residential property for the year in which construction began and the next two taxable years, if the property remains owned by the builder, remains unoccupied, and the city or county has approved the exemption and special assessments and property taxes on the property are not delinquent. The bill provides that a builder is eligible for exemption of no more than 10 properties under this provision in a taxable year within each jurisdiction that has approved the exemption.

Senate Bill No. 2402 increases the maximum income for individuals aged 65 or older or permanently and totally disabled to qualify for the homestead property tax credit from $17,500 to $26,000. The bill also increases the maximum amount of the homestead credit from $3,375 to $4,500 of taxable valuation. The bill increases the maximum annual refund available to renters who otherwise qualify for the homestead credit from $240 to $400. The bill increases from $50,000 to $75,000 the value of assets of a person that would disqualify the person from the homestead credit.

Senate Bill No. 2201 provides for state payment to political subdivisions for the property tax credit for disabled veterans with an armed forces service-connected disability of 50 percent or greater. The credit is applied to the first $120,000 of true and full value of the individual's homestead and the reduction is equal to the percentage of the

individual's disability compensation rating certified by the United States Department of Veterans Affairs. The bill eliminates the option for a county to disallow the property tax credit for disabled veterans.

Senate Bill No. 2244 allows continuation of the farm residence exemption for the surviving spouse of a deceased farmer. The exemption remains available for up to five years after the death of an individual who was an active farmer. The exemption applies for as long as the residence is continuously occupied by the surviving spouse of an individual who was a retired farmer at the time of death. The bill also reduces the capitalization rate used in the agricultural property valuation formula from 8.3 percent in 2008 to 8.0 percent in 2009, 7.7 percent in 2010, and 7.4 percent for 2011. After 2011, the capitalization rate will not be subject to a statutory minimum rate.

Senate Bill No. 2052 extends the deadline from 2009 to 2011 for counties to fully implement use of soil type and soil classification data from detailed or general soil surveys in agricultural property assessments. Failure to meet the deadline will subject the county to a reduction of 5 percent in allocations from the state aid distribution fund until full implementation of soil survey use in agricultural property assessments.

House Bill No. 1234 increases the amount of the property tax exemption for the home owned and occupied by a blind person from a maximum of $5,000 of taxable valuation to a maximum of $7,200 of taxable valuation.

House Bill No. 1401 provides that the State Board of Equalization may not approve valuation and assessment of property in any taxing district if the true and full value for residential and commercial property as assessed in that district exceeds the true and full value for those property classifications as determined by the sales ratio study.

Senate Bill No. 2222 increases the limit on the balance that may be carried in a county emergency fund from 10 mills to 15 mills of taxable valuation of property in the county if the county has a population of 5,000 or fewer.

House Bill No. 1301 provides for conversion to property tax status for manufactured homes that are permanently affixed to real property.

Senate Bill No. 2031 extends from 2011 to 2015 the deadline for completion of construction of a wind turbine electric generation unit with a generation capacity of 100 kilowatts or more to qualify for valuation at 1.5 percent of assessed value to determine taxable valuation of the property.

House Bill No. 1382 provides that all taxable oil or gas pipeline property must be assessed by the State Board of Equalization.

House Bill No. 1505 allows a township to relevy property taxes omitted by mistake in the 2008 tax year.

House Bill No. 1166 eliminates or updates obsolete dates and references in property tax laws.

Senate Bill No. 2089 eliminates obsolete provisions relating to listing and assessment of severed coal and mineral interests.

INCOME TAXES

Senate Bill No. 2199 provides corporate and individual income tax rate reductions. For corporations, five income brackets are reduced to three income brackets and rates are reduced from a range of 2.6 percent to 6.5 percent to a range of 2.1 percent to 6.4 percent of taxable income. For individuals, rates in all brackets are reduced from a range of 2.10 percent to 5.54 percent to a range of 1.84 percent to 4.86 percent of taxable income. The individual rate reductions provide a uniform reduction of approximately 13.4 percent in all brackets.

House Bill No. 1324 eliminates the optional Form ND-2 for individual income tax filers.

Senate Bill No. 2269 imposes additional requirements to qualify for the angel fund investment income tax credit. The new requirements include that the angel fund must be headquartered in North Dakota and invest in a portfolio of at least three early-stage and mid-stage private and nonpublicly traded enterprises, the fund must consist of at least six accredited investors, one individual may not own more than 25 percent of the capitalized investment assets, the fund must have at least $500,000 in commitments from accredited investors, the fund must be member-managed and certified by the Department of Commerce, and the fund must be in compliance with securities laws. The bill prohibits an angel fund from investing in an enterprise if one angel fund investor owns more than 49 percent of the enterprise. The bill limits credits for one angel fund to not more than $5 million during the life of the angel fund.

House Bill No. 1209 created an income tax credit for premiums for long-term care partnership plan insurance coverage. The credit is available for premiums paid during the taxable year by the taxpayer for qualified long-term care partnership plan coverage for the taxpayer or the taxpayer's spouse, or both. The credit is limited for each insured individual to $250 in any taxable year.

House Bill No. 1448 allows certain persons, trusts, or estates that were omitted from coverage under the property tax relief income tax credit in 2007 Senate Bill No. 2032 to claim that credit during the 2009 tax year. The credit is subject to the same conditions and limitations that applied under 2007 Senate Bill No. 2032, except a taxpayer may not request a certificate for the amount of the credit exceeding tax liability. The credit is available to a passthrough entity and must be passed through to the partners, shareholders, or members in proportion to their interests in the passthrough entity.

House Bill No. 1489 adds soybean and canola crushing facility equipment costs to the corporate income tax credit available for biodiesel production facilities. The credit is 10 percent per year for five years of the taxpayer's direct costs to adapt or add equipment to produce crushed soybeans or canola.

Senate Bill No. 2405 adjusts the add-back of a federal income tax deduction for certain qualifying cooperatives to provide for state income tax purposes that if the cooperative elected to pass the deduction through to its patrons, the add-back does not include the amount passed through to patrons.

House Bill No. 1392 provides an income tax deduction for interest charge domestic international sales corporations without economic substance owned by individuals or passthrough entities equal to the amount of actual or deemed distributions to the owners of the corporation.

House Bill No. 1256 provides that qualified dividend income taxed at the same rate as long-term capital gain for federal income tax purposes is eligible for the same 30 percent reduction for state income tax purposes which is available for long-term capital gain.

Senate Bill No. 2388 provides an individual and corporate income tax credit for employers for 25 percent of the reduction in compensation that the employer continues to pay for an employee mobilized for active military duty under Title 10 of the United States Code. The maximum credit for each eligible employee is $1,000. The credit is measured by the difference in pay received by the employee for active military duty and the amount the employee would have received if the employee had not been mobilized, including any related retirement plan contributions.

Senate Bill No. 2033 extends the deadline from 2011 to 2015 for installation of a geothermal, solar, wind, or biomass energy device to qualify for the income tax credit equal to 3 percent per year for five years of the actual cost of acquisition and installation of the device.

House Bill No. 1277 allows the income tax credit for geothermal energy device installation to be claimed on the Form ND-1 income tax return.

House Bill No. 1088 provides that for income tax information subject to the confidentiality provisions provided by law, a court of competent jurisdiction may issue an order or subpoena directing the Tax Commissioner to disclose the information to local, state, or federal law enforcement officials conducting a criminal investigation if the applicant satisfies the court that there is probable cause to believe a specific criminal act has been committed and the return information constitutes evidence relevant to the offense, the return information is sought exclusively for use in a criminal investigation or proceeding, and the information sought cannot reasonably be obtained from another source.

House Bill No. 1199 allows a setoff of income tax refund for debts owed to a fund or program administered by the Insurance Commissioner.

House Bill No. 1086 makes technical corrections of statutory references for financial institutions taxes, the research and experimental expenditure income tax credit, corporate income tax return filing requirements, calculation of interest on refunds relating to carryback of a tax credit, and allocation of gain or loss on the sale of a partnership interest.

Senate Bill No. 2089 provides for add-back of dividends paid by captive real estate investment trusts for income tax purposes.

SALES, USE, AND MOTOR VEHICLE EXCISE TAXES

Senate Bill No. 2040 provides a sales and use tax exemption for equipment used in telecommunications infrastructure development. To be exempt, the property must be incorporated into telecommunications service infrastructure owned by a telecommunications company.

House Bill No. 1289 includes irrigation equipment repair parts in the gross receipts tax exemption available for used farm machinery, farm machinery repair parts, and used irrigation equipment.

Senate Bill No. 2037 includes gas recovered from oil wells for purposes of the sales tax exemption for materials used in compressing, processing, gathering, or refining of gas and requires that, to be exempt, the property must be incorporated in expansion of a system used to compress, process, gather, or refine gas.

Senate Bill No. 2032 extends the deadline from 2011 to 2015 for the exemption from sales and use taxes for materials used in construction or expansion of a wind-powered facility.

Senate Bill No. 2035 removes the limitation that beneficiated coal must have been subject to severance taxes before being exempt from sales taxes. The bill also extends the sales and use tax exemption for power plant equipment to cover the equipment for an electrical generating plant that converts beneficiated coal into electrical power.

Senate Bill No. 2184 provides for exclusion from motor vehicle excise taxes of motor vehicle manufacturers' incentives or discounts that reduce the amount paid by the purchaser.

Senate Bill No. 2201 adds an emergency clause to provide a May 1, 2009, effective date for the motor vehicle excise tax exclusion for manufacturers' incentives or discounts under Senate Bill No. 2184.

Senate Bill No. 2012 reduces the 2009-11 biennium state general fund share of motor vehicle excise tax revenues from 100 percent to 75 percent and provides that 25 percent of the revenues are to be transferred to the highway fund. The bill eliminates withholding of one cent per gallon from fuels tax refunds for deposit in the township highway aid fund and provides instead for a direct allocation from the highway tax distribution fund to the township highway fund.

House Bill No. 1083 eliminates the once per biennium accelerated due date for sales tax returns which required taxes collected during May of each odd-numbered year to be payable by June 22 of that year.

Senate Bill No. 2090 makes a technical correction in the sales tax exemption for residents of an adjoining state that does not impose sales taxes to allow the exemption to be claimed by legal entities other than individuals. The change was deemed necessary when it was determined that corporate farming operations in Montana were not entitled to the exemption when purchasing new farm machinery in North Dakota.

Senate Bill No. 2053 extends the sales and use tax exemption for purchases by federal, state, and local governments to also include sales to an Indian tribal government agency, instrumentality, or political subdivision that performs essential government functions.

Senate Bill No. 2325 makes conforming changes to sales, use, and gross receipts tax laws for compliance with the streamlined sales and use tax agreement.

Senate Bill No. 2347 provides a sales and use tax exemption for the sale of items delivered electronically, including specified digital products.

House Bill No. 1131 provides that the motor vehicle excise tax credit for a leased vehicle that is stolen or totally destroyed may not exceed the total amount of motor vehicle excise tax that has actually been paid under the lease. The bill also provides for use of the average value of a similar motor vehicle lease to determine the tax due when a motor vehicle lease is a gift or other agreement for nominal value.

House Bill No. 1082 makes technical corrections in provisions of sales and motor vehicle excise tax laws.

House Bill No. 1042 makes technical corrections in sales and use tax laws.

House Bill No. 1088 provides an exception to the confidentiality provisions governing sales tax administration to allow a court of competent jurisdiction to issue an order or subpoena directing the Tax Commissioner to disclose sales tax return information to local, state, or federal law enforcement officials conducting a criminal investigation if

the applicant satisfies the court that there is probable cause to believe that a specific criminal act has been committed and the return information constitutes evidence of a criminal offense, the return information is sought exclusively for use in a criminal investigation or proceeding, and the information cannot reasonably be obtained from another source.

Senate Bill No. 2006 provides an adjustment in use of aircraft excise tax revenue deposited in the Aeronautics Commission special fund to allow the Aeronautics Commission to increase its share from providing matching funds to provide up to 90 percent of the project costs for airport projects.

FUELS TAXES

Senate Bill No. 2388 provides for deposit of up to $1.6 million per biennium in the highway-rail grade crossing safety projects fund from special fuels taxes paid by railroads on diesel fuels. The bill provides an appropriation for grants by the Department of Transportation for highway-rail grade crossing safety projects.

Senate Bill No. 2375 allows use of dyed special fuel by a city that has computerized fuel dispensing equipment that allows tracking of fuel usage by the city's vehicles and requires the city to pay taxes appropriate for that usage.

Senate Bill No. 2224 allows a special fuels tax refund for fuel used in a truck or trailer refrigeration unit that has a separate supply tank.

House Bill No. 1082 makes technical corrections in motor vehicle excise and special fuels tax laws.

OIL AND GAS TAXES

House Bill No. 1235 provides a contingent rate reduction in the oil extraction tax, which reduces the oil extraction tax rate for horizontal wells from 6.5 percent to 2 percent during the time the rate reduction is in effect. Existing law provides a complete oil extraction tax exemption that triggers into effect if the price of oil for five consecutive months remains below the trigger price. April 2009 would have been the fifth consecutive month below the trigger price but the average price for April rose to an amount exceeding the trigger price, which meant that the exemptions under existing law did not trigger into effect. Because the exemptions did not trigger into effect, the rate reduction provided by House Bill No. 1235 became effective May 1, 2009, and will remain in effect until the first day of the month following a month in which the average price of a barrel of crude oil exceeds $70. The rate reduction applies to oil produced during the first 18 months after completion for a horizontal well and is limited to the first 75,000 barrels or the first $4.5 million of gross value at the well of oil produced from the well. If the rate reduction is effective on the date of completion of a well, the rate reduction applies to production from that well for up to 18 months after completion, even if the price of oil rises to more than $70. If the rate reduction is ineffective on the date of completion of a well, the rate reduction does not apply to production from that well at any time.

Senate Bill No. 2034 provides an oil extraction tax exemption for incremental production from a tertiary recovery project that uses carbon dioxide to enhance oil recovery.

House Bill No. 1304, as amended by House Bill No. 1324, significantly increases allocation of oil and gas gross production taxes to political subdivisions and the oil and gas impact grant fund. From the tax equal to the first 1 percent of gross value at the well of oil production, a direct allocation of $500,000 is created for a city in an oil-producing county which has a population of 7,500 or more and more than 2 percent of its employment engaged in the mining industry. The allocation is increased to $1 million if the city's employment in the mining industry exceeds 7.5 percent of its employment. Also from the tax equal to the first 1 percent of value of oil produced, the biennial allocation to the oil and gas impact grant fund is increased from $6 million to $8 million per biennium. The bill makes several changes in allocations of oil and gas gross production tax revenue to political subdivisions. The bill increases from $1 million to $2 million the initial amount of tax revenue allocated 100 percent to the producing county. The bill removes the caps on tax revenue allocations to counties but provides that the amount exceeding $18 million of annual revenue to a county is allocated 10 percent to the county and 90 percent to the state general fund. The bill requires a county to levy at least 10 mills for county road and bridge, farm-to-market and federal-aid road, and county road purposes to receive any allocation of oil and gas gross production tax revenues. The bill restructures allocation of revenues within counties to hold school district allocations at approximately the level provided under existing law and establishes a county infrastructure fund for deposit of funds exceeding $5,350,000 allocated to the county. Revenues allocated to a county infrastructure fund are allocated to the county and to cities in the same proportion as existing law, but the 35 percent share allocated to school districts under existing law is instead allocated to the board of county commissioners to provide grants to or for the benefit of townships or school districts. Grants are available on the basis of applications by townships for funding to offset oil and gas development impact to township roads or other infrastructure needs or applications by school districts for repair or replacement of school district vehicles necessitated by damage or deterioration attributable to travel on oil and gas development-impacted roads. For unorganized townships within the county, the board of county commissioners

may expend an appropriate portion of county infrastructure fund revenues to offset oil and gas development impact to township roads or other infrastructure needs. The bill provides that within 60 days after the end of each fiscal year, the board of county commissioners of a county that has received oil and gas gross production tax revenue allocations must file a report with the Tax Commissioner showing the amount received by the county, the amount expended for each purpose to which the funds were devoted, the share of county property tax revenue expended for each of those purposes, and the amount of unexpended funds remaining at the end of the fiscal year. The report must also show the amount available in the county infrastructure fund, the amount allocated to each organized township or school district and the amount expended from that allocation by that township or school district, the amount expended on behalf of unorganized townships, and the amount in the county infrastructure fund which remained unexpended at the end of the fiscal year. The bill requires the Tax Commissioner to compile the information from the reports and provide a report to the Legislative Council.

Senate Bill No. 2413 provides an oil and gas gross production tax exemption for gas burned at the well site to power an electrical generator that consumes at least 75 percent of the gas from the well.

House Bill No. 1164 provides for monthly, rather than quarterly, transfers of oil extraction tax revenues to the resources trust fund, common schools trust fund, foundation aid stabilization fund, and state general fund.

House Bill No. 1140 made technical corrections in the language relating to the share of oil and gas tax revenues deposited in the general fund and the permanent oil tax trust fund. The bill provides that interest earnings of the permanent oil tax trust fund shall be credited to the general fund as they accrue, rather than at the end of each fiscal year.

Senate Bill No. 2051 increases from $3 million to $4 million per biennium the share of oil and gas tax revenues deposited in the oil and gas research fund.

House Bill No. 1126 makes technical changes to provide that oil and gas research fund deposits are made before deposit of revenues in the general fund or permanent oil tax trust fund.

House Bill No. 1394 extends from 2007 to 2009 the provision providing for transfer of the first $700,000 of the state's share of tax revenues from oil production within the Fort Berthold Reservation to the permanent oil tax trust fund. The bill also provides a statement of legislative intent that the amendment prevails over the repeal of Section 57-51.1-07.4 contained in **Senate Bill No. 2088**.

COAL TAXES

Senate Bill No. 2297 revised taxation of rural electric cooperatives and cooperative electrical generating plants. The bill provides that cooperative electrical generating plants continue to be taxed as coal conversion facilities.

Senate Bill No. 2221 provides a credit against coal conversion facilities taxes for carbon dioxide capture from the emissions of the facility. A coal conversion facility that achieves a 20 percent capture of carbon dioxide emissions after 2009 is entitled to a 20 percent reduction in the state general fund's share of the coal conversion facilities tax. The facility is entitled to an additional reduction of 1 percent of the state general fund share of the tax for every additional two percentage points of the capture of carbon dioxide emissions, up to a maximum reduction of 50 percent of the state general fund share of the tax. The credit is available for 10 years from the date of first capture of carbon dioxide emissions.

House Bill No. 1015 provides that beginning with the 2011-13 biennium, the State Treasurer shall allocate funds provided by legislative appropriation to a coal-producing county to offset 50 percent of the loss of that county's share of coal severance tax revenue allocated to a non-coal-producing county because of the proximity of a tipple to the border of the coal-producing county. The bill requires the State Treasurer to include in each biennial budget request the amount estimated to be necessary to fund the payment by the state.

Senate Bill No. 2036 provides that a coal conversion facility's tax exemption for repowering applies to a facility using beneficiated coal and that the exemption applies to electrical generating units, rather than the entire plant.

Senate Bill No. 2035 provides a coal severance tax exemption for coal purchased for improvement through the process of coal beneficiation for use to produce steam used in agricultural commodity processing facilities in North Dakota or adjacent states or facilities owned by the state or a political subdivision.

Senate Bill No. 2377 makes a technical correction of statutory language relating to the provision for coal severance tax allocation because of the proximity of a tipple of an active coal mining operation to the border of a county in which no coal is mined.

EMERGENCY SERVICES COMMUNICATION FEES

House Bill No. 1412 provides that political subdivisions with an intrastate multicounty public safety answering point may increase the maximum emergency services communication fee from $1.00 to $1.50 by resolution, subject to a vote in that political subdivision at the next general election. The change is effective through June 30, 2012.

House Bill No. 1135 adds a member appointed by the Chief Information Officer of the state to the membership of the Emergency Services Communications Coordinating Committee. The bill also adds to the duties of the committee the responsibility to serve as the governmental body to coordinate plans for implementing emergency 911 services and Internet protocol-enabled emergency applications for 911.

MISCELLANEOUS TAX PROVISIONS

House Bill No. 1086 increases the annual salary of the Tax Commissioner from $86,360 through June 30, 2009, to $90,678 through June 30, 2010, and $95,212 after June 30, 2010.

House Bill No. 1163 extends the deadline for the State Treasurer to transfer transmission line tax revenues from July 15 of each year to July 31 of each year.

Senate Bill No. 2093 extends the deadline for the State Treasurer to transfer telecommunications carriers tax fund revenues to counties from the 10th working day in March to March 31 of each year.

House Bill No. 1436 changes a reference from the Legislative Council to Legislative Management for purposes of receiving a report from the Emergency Services Communications Coordinating Committee.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 58
Townships
Summary of Bills Enacted by 2009 Legislative Assembly

There was no 2009 legislation enacted which primarily affected North Dakota Century Code Title 58. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 59
Trusts, Uses, and Powers
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 59. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1458 requires a trustee to inform a person who has been identified as a qualified beneficiary of a revocable trust of what the trust may provide that beneficiary if the qualified beneficiary is required to provide that information for a determination of benefits for medical assistance, temporary assistance for needy families, supplemental nutrition assistance, home and community-based services, or service payments for the elderly and disabled. In addition, the bill reestablishes the presumption against a trustee in a transaction between a trustee and the trust's beneficiary that the transaction is presumed to be entered into by the trust beneficiary without sufficient consideration and under undue influence.

House Bill No. 1300 provides that an irrevocable noncharitable trust that is modified upon the consent of the beneficiaries continues to be irrevocable.

Senate Bill No. 2073 amends the Uniform Principal and Income Act to bring the Act in compliance with Internal Revenue Service rulings to ensure that the trust qualifies for the marital deduction, to minimize estate taxes in accordance with the decedent's plan, and to provide a formula for calculating how much of the trust needs to be distributed and how much of it can be used to pay taxes. The bill clarifies that the trust will keep enough money to pay its taxes and distribute the balance of income to a mandatory income beneficiary.

House Bill No. 1074 adopts the Uniform Prudent Management of Institutional Funds Act, repeals the Uniform Management of Institutional Funds Act, provides more detail to nonprofits about investment of funds, moves to a prudent spending rule based on donor intent and the permanent duration of the endowment, and modifies restrictions on gifts made to nonprofits.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 60
Warehousing and Deposits
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 60. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

Senate Bill No. 2124 provides that if a public warehouse is transferred under Chapter 60-02, credit-sale contracts may be assigned to another licensed public warehouseman or facility-based grain buyer.

Senate Bill No. 2321 removes the sunset from provisions stating that various licensing and bonding requirements do not apply to any person that purchases, solicits, or merchandises grain, which has been cleaned, processed, and made ready for consumption, from a public warehouseman who is licensed and bonded.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 61
Waters
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 61. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

The legislation relating to waters may be classified in these subject areas: State Water Commission, appropriation of water, water resource districts, irrigation districts, Garrison Diversion Conservancy District, Southwest Water Authority, and Red River Valley Water Supply Project.

STATE WATER COMMISSION

House Bill No. 1020 appropriates $310,745,708 to the State Water Commission. The bill also appropriates $12 million from federal fiscal stimulus funds made available to the state under the federal American Recovery and Reinvestment Act of 2009 for funding for the Southwest Pipeline Project. The bill also provides that $45 million of the appropriation is for Fargo flood control projects and states that it is the intent of the 61st Legislative Assembly that a total of $75 million be committed by the state to match a grant of federal funds for Fargo flood control. The appropriation of federal fiscal stimulus funds is an emergency measure.

House Bill No. 1305 appropriates $2,792,000 from the permanent oil tax trust fund to the State Water Commission to provide a grant of up to $864,000 to assist in the local cost-share of the Ray and Tioga Water Supply Project; provide a grant of up to $985,000 to assist in the local cost-share of the Burke, Divide, and Williams Water District Water Supply Project; provide a grant of up to $593,000 to assist in the local cost-share of the Wildrose Water Supply Project; and provide a grant of up to $350,000 to assist in the repayment of outstanding bonds associated with the Stanley water pipeline construction project. The bill is an emergency measure.

Senate Bill No. 2305 appropriates $342,000 from the resources trust fund to the State Water Commission to conduct a Beaver Bay embankment feasibility study.

Senate Bill No. 2316 provides that the State Water Commission shall develop policies, including cost-sharing guidelines, which further the development of water retention projects for flood control and provide a report regarding the policies to the 62nd Legislative Assembly.

APPROPRIATION OF WATER

House Bill No. 1286 revises the definition of domestic use for purposes of water appropriation from including irrigation of land not exceeding one acre in area for noncommercial gardens, orchards, lawns, trees, or shrubbery to irrigation of land not exceeding five acres for those purposes and defines irrigation use for purposes of water appropriation as including use of water for application to more than five acres of land rather than one acre and includes gardens, orchards, lawns, trees, or shrubbery within the definition of agricultural crops.

WATER RESOURCE DISTRICTS

Senate Bill No. 2251 increases the compensation for water resource district managers from $45 per day to $75, but not more than $135, per day.

Senate Bill No. 2253 removes the requirement that if a water resource district board consists of three managers, one manager must be from a flood prone area, if any, within the district which is defined as a floodplain area of a river subject to periodic and recurring flooding. The bill also deletes language establishing staggered terms for initial water resource managers as water resource districts have all now established staggered terms for managers.

Senate Bill No. 2254 provides that a water resource district board may finance the maintenance of projects constructed by a federal agency, including the Soil Conservation Service or Natural Resources Conservation Services, without the need for the district to physically locate a maintenance contract with the federal agency.

Senate Bill No. 2255 allows water resource districts to utilize "quick take" eminent domain proceedings for projects for which state funds have been appropriated.

IRRIGATION DISTRICTS

House Bill No. 1321 authorizes the board of directors of irrigation districts to hold mail ballot elections.

GARRISON DIVERSION CONSERVANCY DISTRICT

Senate Bill No. 2298 authorizes the Garrison Diversion Conservancy District to issue revenue bonds for the Red River Valley Water Supply Project.

SOUTHWEST WATER AUTHORITY

Senate Bill No. 2193 expands the powers and duties of the board of directors of the Southwest Water Authority to include the study of an analysis of options for providing additional water supplies to southwest North Dakota for purposes including domestic, rural water, municipal, livestock, energy development, industrial, mining, and other uses and to conduct engineering, legal, financial, educational, and other activities to further the completion of the Southwest Pipeline Project or other works or other projects necessary to provide adequate water supplies for southwest North Dakota. The bill also extends the authority of the Southwest Water Authority to levy taxes from 2010 to 2020.

House Bill No. 1278 adds a director from the city of Mandan to the board of directors of the Southwest Water Authority and provides that the current director from Morton County may not be a resident of Mandan.

RED RIVER VALLEY WATER SUPPLY PROJECT

Senate Bill No. 2317 revises the funding plan for the Red River Valley Water Supply Project to provide that it is the intent of the Legislative Assembly to provide state funding for one-third of the total cost of constructing the Red River Valley Water Supply Project, that any general fund appropriation for the project may be carried over to future bienniums, and that state funding for the project may be appropriated at the time and in the manner determined by the Legislative Assembly, either concurrently or separately from federal and local funding for the project.

Senate Concurrent Resolution No. 4035 urges Congress to establish the Red River Valley Authority as an agency or authorized board of the federal government for the purposes of the regulation and control of water quality of the Red River and regulation and control of the retention and flow of water, including retention by dams or retention ponds or other areas, and of drainage on the Red River.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 62.1
Weapons
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 62.1. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

Senate Bill No. 2415 allows for a Class 1 concealed weapons license to an applicant who is at least age 21 and a Class 2 concealed weapons license to an applicant who is at least age 18 and a resident or nonresident citizen of the United States. The bill requires a Class 1 licensee to successfully participate in classroom instruction on safety rules and deadly force law in this state, complete an open book test, demonstrate familiarity with a firearm or dangerous weapon, and complete an actual shooting or certified proficiency exercise. The bill allows as evidence of familiarity with a firearm or dangerous weapon certification by an individual certified by the Attorney General, which may include a law enforcement officer, military or civilian firearms instructor, hunter safety instructor, or dangerous weapons instructor; evidence of equivalent experience with a firearm or dangerous weapon through participation in organized shooting competition, law enforcement, military service, or dangerous weapons course training; or possession of a license from another state to carry a firearm or dangerous weapon which was granted with the evidence of familiarity with a firearm or dangerous weapon or evidence that the applicant during military service was found to be qualified to operate a firearm or dangerous weapon. An applicant for a Class 2 license must successfully complete the open book test offered for the Class 1 license. The bill converts present concealed weapons licenses to Class 2 licenses and the fee for a concealed weapons license was increased from $25 to $45. In addition, the bill requires an applicant to provide documentation relating to any court-ordered treatment or commitment for mental health or alcohol or substance abuse or incidence of domestic violence and provide written authorization for disclosure of the applicant's mental health and alcohol or substance abuse evaluation and treatment records.

House Bill No. 1015 allows a person conducting testing for a concealed weapons license to charge up to $50 for conducting the testing.

House Bill No. 1389 exempts from the term "public gathering" a state or federal park which in effect allows a person to possess a firearm at a state or federal park.

House Bill No. 1351 allows a staff member of the Attorney General's office to possess a firearm at a public gathering, including publicly owned and operated buildings if the individual maintains the same level of firearms proficiency as is required by the Peace Officer Standards and Training Board for law enforcement officers.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 63
Weeds
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 63. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1026 contains several provisions applicable to the funding of noxious weed programs. Those provisions are codified in Title 4.1 and described in the summary of Title 4.1. The bill also removes cross-references to Chapter 63-01.1, which was repealed.

House Bill No. 1270 contains several provisions applicable to the certification of forage. Those provisions are codified in Title 4.1 and described in the summary of Title 4.1.

Senate Bill No. 2371 contains several provisions applicable to the funding of noxious weed programs. Those provisions are codified in Title 4.1 and described in the summary of Title 4.1. The bill also allows for the control of invasive species and authorizes the Agriculture Commissioner to use up to $50,000 from the environment and rangeland protection fund for that purpose.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 64
Weights, Measures, and Grades
Summary of Bills Enacted by 2009 Legislative Assembly

There was no 2009 legislation enacted which primarily affected 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.

Prepared by the North Dakota Legislative Council staff
June 2009

TITLE 65
Workforce Safety and Insurance
Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 65. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

The legislation relating to Workforce Safety and Insurance may be classified in these subject areas: administration and benefits.

ADMINISTRATION

House Bill No. 1021 provides money in the Workforce Safety and Insurance (WSI) fund is appropriated to WSI on a continuing basis for payment of WSI expenses associated with litigating employer-related issues and for payment of WSI expenses associated with litigating medical provider-related issues identified under Sections 65-02-23 and 65-02-20.

House Bill No. 1035 modifies the WSI Board of Directors membership for employer representatives and amends the WSI financial reserve requirements law, including providing the level of financial reserves plus available surplus is to be determined annually as of June 30th of each year and directing the actions WSI shall take if the annual level of financial reserves plus available surplus is below the statutory minimum, within the statutory levels, or above the statutory maximum.

House Bill No. 1036 provides WSI shall establish premium rates annually on an actuarial basis and that the workers' compensation statewide average premium rate level may not deviate by more than five percentage points from the recommended actuarial indicated premium level for that year.

House Bill No. 1037 removes the requirement that the biennial independent performance evaluation of WSI must include an evaluation and report of the effectiveness of WSI costs associated with identifying, preventing, and investigating employer or provider fraud and modifies the requirements of the WSI independent performance evaluation, including changing the entity to which the report is provided from the Legislative Audit and Fiscal Review Committee to the Workers' Compensation Review Committee and modifying the required elements of the independent performance evaluation.

House Bill No. 1151 modifies the definition of "wages" as used in the state's workers' compensation law, clarifying the term means all gross earnings of all employees, including pretax deductions for amounts allocated by the employee; provides the WSI information fund is a fund within the WSI insurance fund and removes the $10,000 maximum on the information fund's balance; provides a recipient of funds awarded under a WSI safety grant program authorizes WSI to disclose the name of the award recipient and the amount of the award received; clarifies what is included in a WSI employer's file and changes WSI employer files from being exempt from the state's public records laws to being confidential and not subject to disclosure under the public records laws; and repeals the law relating to WSI rules regarding mine foremen.

House Bill No. 1201 changes the name of the WSI Office of Independent Review to the Decision Review Office.

House Bill No. 1360, as part of a bill relating to the rights of regional education association employees, clarifies that multidistrict special education units, area career and technology centers, and regional education associations shall pay WSI premiums at the same time and in the same manner as school districts.

House Bill No. 1436, as part of the bill that changes the name of the Legislative Council to the Legislative Management and retains the name Legislative Council as it pertains to the Legislative Council staff, corrects references to the Legislative Council.

House Bill No. 1464 amends the workers' compensation laws to reconcile existing law with 2008 initiated measure No. 4, including clarifying WSI does not arrange for the designation of hearing officers, that hearing officers are designated by the Office of Administrative Hearings, that the hearing officer's results of an administrative hearing are final, and that WSI may appeal to district court a final order issued by a hearing officer; revising the powers and duties of the WSI Board of Directors to be advisory; and repealing WSI's authority to establish its own personnel

system for its employees. The bill also repeals the statutory provision prohibiting WSI from expending funds for the purpose of providing education or training for public officials and from providing awards.

Senate Bill No. 2431 provides when WSI requires an injured employee to submit to an independent medical examination, WSI is directed to make a reasonable effort to designate a duly qualified doctor licensed in the state in which the injured employee resides.

Senate Bill No. 2432 decreases from 60 days to 30 days the period of time following a work injury that an injured employee is required to seek medical treatment only from the employer's preferred provider.

BENEFITS

House Bill No. 1061 redefines the term "artificial member" as it applies to workers' compensation law providing the term includes a device that is a substitute for a natural part, organ, limb, or other part of the body, including a prescriptive device that is an aid for a natural part, organ, limb, or other part of the body if the damage to the prescriptive device is accompanied by an injury to the body.

House Bill No. 1062 provides in the case of an injured employee receiving a vocational rehabilitation award, WSI may grant up to an additional 20 weeks of benefits to be used as a rehabilitation extension allowance; in the case of an injured employee who is required to return to the local or statewide job pool or who is unable to return to employment with adequate earnings, WSI may grant an additional award; and WSI shall implement a system of pilot programs to allow WSI to address alternative methods of providing rehabilitation services, including an annual report to the Workers' Compensation Review Committee and WSI data collection regarding the status of claims that have received rehabilitation services.

House Bill No. 1063 expands workers' compensation coverage by providing that during the 60 days immediately following an injury, if WSI accrues a medical expense or makes a payment for a medical expense for which WSI later determines was for a noncompensable injury, the injured employee is not liable for the medical expense unless the organization had made an earlier determination of noncompensability or unless the medical provider or injured employee should have reasonably known the medical expense was for a noncompensable injury.

House Bill No. 1064, for purposes of workers' compensation temporary total or permanent total disability, shortens the attempt-to-work period from 12 months to 3 months, and the bill also modifies the supplementary benefits provision, also known as the cost-of-living adjustment, by providing recipients of temporary total disability benefits may qualify for supplementary benefits and by shortening from seven years to three years the period of time after which an injured employee may qualify for supplementary benefits.

House Bill No. 1073, as part of the bill that enacts the Uniform Emergency Volunteer Health Practitioners Act, amends the workers' compensation law to use consistent language and to clarify a volunteer health practitioner under the uniform law is eligible for workers' compensation benefits under the volunteer firefighter, emergency or disaster volunteer, community emergency response team member law.

House Bill No. 1101 increases the workers' compensation dependency allowance for a child from $10 to $15 per week per child; revises the calculation of the amount of preacceptance disability benefits, basing the benefit on the regular weekly disability benefit amount instead of the minimum weekly disability benefit amount; increases the maximum allowed partial disability, temporary total disability, or permanent total disability benefit from 110 percent to 125 percent of the state's average weekly wage; expands the benefits an injured employee may receive for an aggravation to include costs of travel and other personal reimbursement for seeking and obtaining medical care for the aggravated work injury; increases the weekly compensation allowance for a death claim, including increasing the maximum total death benefits, including supplementary benefits, paid on any one claim from $250,000 to $300,000, increasing from $10 to $15 the per child weekly compensation for a death claim, and increasing the additional death benefit payments from $1,200 to $2,500 for a surviving spouse and $400 to $800 per dependent child; and increases the maximum burial expense payment from $6,500 to $10,000.

House Bill No. 1455 creates a new type of surviving spouse benefit for a qualified spouse of an injured employee who had been receiving permanent total disability benefits or additional benefits payable for at least 10 years if the surviving spouse was married to the injured employee for at least 10 years and had been providing home health care services for the injured employee.

House Bill No. 1561 provides that if WSI does not give an injured employee's treating doctor's opinion controlling weight, WSI shall establish that the treating doctor's opinion is not well-supported by medically acceptable clinical and laboratory diagnostic techniques or is inconsistent with other substantial evidence in the injured employee's record based on specified factors.

Senate Bill No. 2055 revises the burden of proof under the workers' compensation firefighter's and law enforcement officer's presumption, providing the presumption may be rebutted by clear and convincing evidence the condition or impairment is not work-related.

Senate Bill No. 2056 revises the workers' compensation mileage reimbursement for injured employees' medical travel, replacing calculations based on travel from city limit to city limit with calculations based on miles actually and necessarily traveled.

Senate Bill No. 2057 provides a scheduled injury for workers' compensation permanent partial impairment awards for loss of vision of an eye which equals or exceeds 20/200.

Senate Bill No. 2058 clarifies that an independent medical review contemplates a file review of an injured employee's records and an independent medical examination contemplates an actual examination of an injured employee.

Senate Bill No. 2059 creates a new payment by WSI for an injured employee's attorney's fees and costs to consult with the injured employee regarding a request for rehearing of an administrative order issued by WSI.

Senate Bill No. 2071 provides the standard by which to establish whether an individual operating a licensed truck or licensed tractor for a motor carrier of property rebuts the presumption the individual is an employee for purposes of the workers' compensation law.

Senate Bill No. 2419 revises the provision that directs WSI to provide an injured employee with a rehabilitation allowance if travel or maintaining a second domicile is required to attend school or a training institution, clarifying the injured employee has the choice of whether to commute or maintain a second domicile, decreasing from 30 miles to 25 miles the travel distance required before qualifying for a second domicile, and providing travel of less than 30 miles qualifies for an increased rehabilitation allowance.

Senate Bill No. 2433 clarifies that as part of vocational rehabilitation services provided by WSI, once WSI makes a determination of the first appropriate vocational rehabilitation option, WSI shall notify the injured employee of the obligation to make a good-faith work search or good-faith work trial and to provide information regarding reinstatement of benefits if the work search or work trial is unsuccessful.