

SENATE BILL NO. 2360

Introduced by

Senators Wardner, Krebsbach

Representatives D. Johnson, Klein

1 A BILL for an Act to amend and reenact sections 12-46-05, 12-47-07, 15-02-01, 15-02-04,
2 18-01-01, 20.1-02-06, 20.1-02-08, 25-01-04, 27-03-02, 37-15-07, 37-18-07, subsection 3 of
3 section 37-18.1-03, sections 39-03-06, 44-03-01, 49-01-03, 54-11-07, 54-23.3-04, 54-44-03,
4 subsection 2 of section 54-52-04, sections 55-02-01.1, 61-03-02, 65-02-02, and 65-04-30 of the
5 North Dakota Century Code, relating to bonds required of state officers; and to repeal sections
6 6-01-12, 15-12-06, 20.1-02-12, 27-04-02, 44-01-13, 54-06-11, 54-09-06, 54-10-03, 54-11-14,
7 54-18-08, and 57-01-01 of the North Dakota Century Code, relating to bonds required of state
8 officers.

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

10 **SECTION 1. AMENDMENT.** Section 12-46-05 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **12-46-05. Oath and bond of superintendent.** The superintendent, before entering
13 upon the duties of ~~his~~ the office, shall take the oath prescribed for civil officers ~~and furnish a~~
14 ~~bond in the penal sum of ten thousand dollars, which shall conform to the provisions of law~~
15 ~~applicable to the bonds of state officers and employees.~~ The ~~bond and oath shall~~ must be filed
16 and retained in the office of the state treasurer.

17 **SECTION 2. AMENDMENT.** Section 12-47-07 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **12-47-07. Qualification of warden, officers, and employees.** The warden and
20 deputy wardens, before entering upon the duties of their offices, shall take the oath prescribed
21 for civil officers ~~and furnish a bond in the penal sum of ten thousand dollars, which shall~~
22 ~~conform to the provisions of law applicable to the bonds of state officers and employees.~~ The
23 ~~bond and oath shall~~ must be filed and retained in the office of the state treasurer. Each of the
24 other officers and employees of the penitentiary, before entering upon the duties of ~~his~~ the

1 appointment, shall take and subscribe the same oath, which ~~shall~~ must be filed with and
2 retained by the warden.

3 **SECTION 3. AMENDMENT.** Section 15-02-01 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **15-02-01. Commissioner of university and school lands - Appointment - Oath and**
6 **bond.** The board of university and school lands shall appoint a commissioner of university and
7 school lands. All of the official acts of the commissioner are subject to the approval and
8 supervision of the board. Before entering upon ~~his~~ the duties of the commissioner, the
9 commissioner shall take the oath prescribed for civil officers ~~and shall furnish a bond in the~~
10 ~~penal sum of ten thousand dollars.~~

11 **SECTION 4. AMENDMENT.** Section 15-02-04 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **15-02-04. Deputy commissioner - Appointment - Oath - ~~Bond.~~** The commissioner,
14 with the consent of the board, may appoint a deputy. Before entering upon any ~~of his~~ duties the
15 deputy shall take and subscribe the oath of office required by law for civil officers ~~and shall~~
16 ~~furnish to the state a bond in the penal sum of five thousand dollars.~~

17 **SECTION 5. AMENDMENT.** Section 18-01-01 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **18-01-01. Appointment of fire marshal - Appointment and salaries of deputies and**
20 **assistants - ~~Bonds~~ - Budget.** The attorney general shall appoint the state fire marshal and
21 supervise the operation of the state fire marshal department. The state fire marshal shall
22 manage the fire marshal department and shall perform the duties imposed on the state fire
23 marshal by ~~the provisions of~~ this chapter.

24 The state fire marshal shall appoint such deputies and other employees as the state fire
25 marshal deems necessary to carry out ~~the provisions of~~ this chapter within the limits of
26 legislative appropriations ~~therefor~~.

27 Before entering upon their duties, the state fire marshal and each deputy appointed
28 under this section shall ~~give a bond to the state of North Dakota in the penal sum of five~~
29 ~~thousand dollars, conditioned for the faithful discharge of their duties and shall take and~~
30 subscribe the constitutional oath of office and file the ~~same~~ oath in the office of the secretary of
31 state.

1 The fire marshal department must be operated in conjunction with the bureau of criminal
2 investigation. The budget for the fire marshal department must be submitted as part of the
3 attorney general's budget.

4 **SECTION 6. AMENDMENT.** Section 20.1-02-06 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **20.1-02-06. Deputy director - Appointment, removal, oath, ~~bond~~, reports.** The
7 director shall appoint, and may remove at pleasure, a deputy director who is under the
8 director's direct control and supervision. The deputy, within ten days after the date of that
9 person's appointment, shall take and file the oath prescribed for civil officers ~~and furnish a bond~~
10 ~~in the penal sum of five thousand dollars. The bond must conform to and must be filed in~~
11 ~~accordance with the provisions of law applicable to the bonds of state officers.~~ The oath must
12 be filed in the office of the secretary of state. The deputy director shall make monthly and
13 annual reports to the director in the manner required by the director.

14 **SECTION 7. AMENDMENT.** Section 20.1-02-08 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **20.1-02-08. ~~Bond and oath~~ Oath of chief game warden.** The chief game warden,
17 within ten days of appointment, shall take the oath prescribed for civil officers and file it with the
18 secretary of state. ~~The chief game warden shall furnish a bond in the penal sum of five~~
19 ~~thousand dollars.~~

20 **SECTION 8. AMENDMENT.** Section 25-01-04 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **25-01-04. Superintendent of each institution to qualify.** The superintendent of each
23 of the institutions mentioned in this chapter, before entering upon the duties of office, shall take
24 the oath prescribed for civil officers ~~and shall furnish a bond in such sum as may be fixed by the~~
25 ~~supervising officer which must conform to the provisions of law applicable to the bonds of state~~
26 ~~officers and employees. Each such bond must be filed by the supervising officer in the office of~~
27 ~~the secretary of state.~~

28 **SECTION 9. AMENDMENT.** Section 27-03-02 of the North Dakota Century Code is
29 amended and reenacted as follows:

30 **27-03-02. Clerk of supreme court - Oath ~~and bond~~ - Deputy.** The clerk of the
31 supreme court, before entering upon ~~his~~ the clerk's duties, shall qualify by taking the oath

1 prescribed for civil officers ~~and by giving an official bond in the penal sum of three thousand~~
2 ~~dollars. Such~~ The clerk may appoint a deputy who shall take and subscribe the oath prescribed
3 for civil officers and file the same in the supreme court. The clerk is responsible for the acts of
4 ~~his~~ the deputy.

5 **SECTION 10. AMENDMENT.** Section 37-15-07 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **37-15-07. Commandant of veterans' home - Appointment - Qualifications - Term -**
8 **Salary –Bond.** The appointment, qualifications, term of office, and salary of the commandant
9 of the veterans' home must be as prescribed in section 37-18.1-03. ~~The commandant must be~~
10 ~~bonded through the state bonding fund in the amount as determined by the administrative~~
11 ~~committee on veterans' affairs, except that the amount of the bond must be at least five~~
12 ~~thousand dollars.~~

13 **SECTION 11. AMENDMENT.** Section 37-18-07 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **37-18-07. Commissioner - Appointment - Qualifications - Term - Salary –Bond.**
16 The appointment, qualifications, term of office, and salary of the commissioner must be as
17 prescribed in section 37-18.1-03. The commissioner must be ~~bonded through the state~~
18 ~~bonding fund in the amount as determined by the administrative committee on veterans' affairs,~~
19 ~~provided that such bond must be in a minimum amount of five thousand dollars. He must be~~
20 allowed such amounts for travel, clerkhire, and expenses as may be prescribed from time to
21 time by legislative appropriations.

22 **SECTION 12. AMENDMENT.** Subsection 3 of section 37-18.1-03 of the North Dakota
23 Century Code is amended and reenacted as follows:

24 3. The committee shall appoint the commandant of the veterans' home and the
25 commissioner of the department of veterans' affairs. Individuals appointed to these
26 positions must be bona fide residents of the state, and must qualify as a veteran as
27 defined in section 37-01-40. Their terms of office are for two years, commencing
28 on July 1, 1971, and on every second anniversary thereof. The committee shall
29 determine the salaries paid to the commandant of the veterans' home and the
30 commissioner of the department of veterans' affairs within the limits of legislative
31 appropriation. ~~Both officers must be bonded through the state bonding fund in the~~

1 ~~sum of five thousand dollars.~~ The commandant of the veterans' home and the
2 commissioner of veterans' affairs shall serve as the executive secretary for their
3 respective subcommittees. The commandant and the commissioner have no vote
4 in the affairs of the subcommittees.

5 **SECTION 13. AMENDMENT.** Section 39-03-06 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **39-03-06. Oath and bond required of superintendent, assistant superintendent,**
8 **and patrolmen.** The superintendent, assistant superintendent, and each patrolman, before
9 entering upon the performance of the person's duties, shall take and file the oath prescribed by
10 law for state officers ~~and must be bonded in the state bonding fund for the sum of two thousand~~
11 ~~dollars.~~

12 **SECTION 14. AMENDMENT.** Section 44-03-01 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **44-03-01. Deputies may be appointed by certain officers.** The secretary of state,
15 state auditor, state treasurer, superintendent of public instruction, commissioner of insurance,
16 commissioner of agriculture, commissioner of labor, district assessor, and city assessor each
17 may appoint a deputy ~~for whose acts as such he shall be responsible. Each officer required to~~
18 ~~give a bond may require a bond from any deputy appointed by him. Any such bond must be in~~
19 ~~the penal sum of not more than half the penal sum of the appointing officer's own bond and~~
20 ~~may be retained by the officer for his own protection. Such~~ The appointment must be in writing
21 and is revocable in writing at the pleasure of the principal, and ~~such~~ the appointment and
22 revocation must be filed as the ~~bond and~~ oath of the principal ~~are~~ is filed.

23 **SECTION 15. AMENDMENT.** Section 49-01-03 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **49-01-03. Oath and bond of public service commissioners.** Each commissioner
26 before entering upon the duties of ~~his~~ the office shall take the oath required of civil officers ~~and~~
27 ~~shall be bonded in the sum of ten thousand dollars as other state officers are bonded.~~

28 **SECTION 16. AMENDMENT.** Section 54-11-07 of the North Dakota Century Code is
29 amended and reenacted as follows:

30 **54-11-07. Suspension of treasurer by governor - Appointment.** When a certificate
31 is made to the governor by the state auditor under ~~the provisions of the preceding section~~

1 54-11-06, the governor, with the state auditor and the commissioner of banking and financial
2 institutions, ~~thereupon~~ shall examine the books, papers, and all matters connected with the
3 office of the state treasurer so suspended. If it appears to the governor, state auditor, and
4 commissioner of banking and financial institutions on ~~such~~ examination that the state treasurer
5 has embezzled or converted to ~~his~~ the treasurer's own use the public moneys, or has been
6 negligent in keeping ~~his~~ the books, or in taking care of public moneys, the governor on the
7 certificate of the state auditor and the commissioner of banking and financial institutions to that
8 effect may remove the state treasurer and appoint another person to fill the place of the
9 suspended state treasurer. The person so appointed shall ~~execute an official bond and~~ enter
10 upon the office of state treasurer as provided by law. The governor shall report ~~all his acts~~
11 ~~done in removing~~ the removal of the state treasurer to the next succeeding legislative
12 assembly. The state treasurer so appointed shall hold ~~his~~ a successor is elected and qualified.
13 treasurer is reinstated or ~~his~~ a successor is elected and qualified.

14 **SECTION 17. AMENDMENT.** Section 54-23.3-04 of the 1997 Supplement to the North
15 Dakota Century Code is amended and reenacted as follows:

16 **54-23.3-04. Director - Powers and duties.** The director of the department of
17 corrections and rehabilitation has the following powers and duties:

- 18 1. To manage and control all institutions and programs within the department and to
19 administer and enforce the laws with which the department is charged.
- 20 2. To promote a unified criminal justice system and develop a statewide correctional
21 philosophy in cooperation with the courts, law enforcement, and other entities in
22 the criminal justice system.
- 23 3. To develop necessary programs and services for adult and juvenile offenders,
24 within legislative appropriations, to provide for their treatment and rehabilitation and
25 to recognize their special needs.
- 26 4. To develop, maintain, and revise as required a comprehensive master plan for the
27 state's correctional system which must indicate the system's needs and resources.
- 28 5. To establish policies and procedures necessary to carry out the responsibilities of
29 the department.

- 1 6. To organize the department into an adult services division, a juvenile services
2 division, and such other divisions that will enable it to function most effectively and
3 efficiently.
- 4 7. To exercise general supervisory and appointing authority over all department
5 employees, subject to any applicable personnel laws and rules.
- 6 8. To employ and remove the director of the division of juvenile services, the director
7 of the division of adult services, and other division directors and personnel who
8 may be deemed necessary by the director of the department. Until the director of
9 the department of corrections and rehabilitation has been granted the full-time
10 equivalent positions within the department's budget for the division director
11 positions, or when the positions are vacant, the responsibilities of these positions
12 must be assumed by the director of the department of corrections and rehabilitation
13 or by the director's designee.
- 14 9. To delegate authority to subordinates as necessary and appropriate, clearly
15 delineating the delegated authority and limitations.
- 16 10. To promote the development of alternatives to conventional incarceration for those
17 offenders who can be dealt with more effectively in less restrictive,
18 community-based facilities and programs.
- 19 11. ~~To furnish a bond as approved by the governor and to require bonds from~~
20 ~~department employees who may be charged with the custody or control of any~~
21 ~~money or property belonging to the state, and who are not otherwise required by~~
22 ~~law to give a bond. The bonds must conform to the provisions of law applicable to~~
23 ~~the bonds of state officers and employees. Each such bond must be filed in the~~
24 ~~office of the secretary of state.~~
- 25 12. To contract for correctional services, and to provide such services, with the United
26 States, Canada, other states, and any of their governmental subdivisions and
27 agencies and with another agency or governmental unit in this state, or with any
28 private or public correctional or treatment facility or agency. The director shall
29 reimburse the entity at an amount based upon the services required for the
30 housing and treatment of inmates. The director may also contract to provide
31 services, without cost to the state, for persons held by any of the jurisdictions

1 mentioned in this section. If a treaty is in effect between the United States and a
2 foreign country for the transfer and exchange of offenders, the director of the
3 department of corrections and rehabilitation, upon recommendation of the warden
4 and the approval of the governor, may on behalf of the state under the terms of the
5 treaty transfer or exchange offenders and take any action necessary for the state
6 to participate in the treaty.

7 ~~13.~~ 12. To sell, lease, or exchange, with the governor's approval, selected portions of land
8 owned by the state under the jurisdiction of the department of corrections and
9 rehabilitation and to sell, trade, lease, or grant mining easements to extract and
10 remove any resources found on, in, or under said department of corrections and
11 rehabilitation lands including clay, coal, oil, gas, gravel, sand, dirt, and sod, under
12 the following conditions and provisions:

- 13 a. Any such sale, exchange, or transaction must allow for the submission of bids
14 pursuant to a notice published in at least one official county newspaper. The
15 sale, exchange, or transaction is exempt from the provisions of sections
16 54-01-05.2 and 54-01-05.5.
- 17 b. Any such sale, exchange, or transaction may not be made for less than the
18 appraised value, and the state reserves the right to reject any and all bids.
- 19 c. The commissioner of university and school lands or the commissioner's
20 designee shall provide technical assistance and advice to the director of the
21 department of corrections and rehabilitation in any transaction.
- 22 d. All legal documents, papers, and instruments required by any transaction
23 must be reviewed and approved as to form and legality by the attorney
24 general.
- 25 e. Any of these transactions can be entered into on any terms and conditions
26 permitted by law and approved by the governor.
- 27 f. All funds and proceeds realized from any of these transactions must be
28 placed in an interest-bearing fund in the state treasury, designated as the
29 North Dakota state penitentiary land fund to be used for the acquisition of
30 additional land and facilities; to maintain, expand, or develop affiliated
31 facilities; to relocate the Missouri River correctional center and the farming

1 and ranching operations of the North Dakota state penitentiary; or for
2 penitentiary renovation.

3 ~~44.~~ 13. To provide meals at a fair value or without a charge to officers and employees of
4 the department as required by their job assignments.

5 ~~45.~~ 14. To accept property forfeited or seized in accordance with law.

6 ~~46.~~ 15. To collect costs and fees from persons on correctional supervision for the
7 supervision services, control devices, and programs as implemented by the
8 department to assist in making community corrections an effective alternative to
9 incarceration. A person on active supervision is presumed able to pay assessed
10 fees unless the director, giving due consideration to the fiscal obligations and
11 resources of the probationer, determines otherwise. A person with the ability to
12 pay assessed fees who refuses to pay must be returned to the court for a judicial
13 determination.

14 ~~47.~~ 16. To collect the costs of any presentence investigation and report incurred under
15 subsection 11 of section 12.1-32-02, giving due consideration to the financial
16 obligations and resources of the defendant.

17 **SECTION 18. AMENDMENT.** Section 54-44-03 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **54-44-03. Director of the office of management and budget.** There must be a
20 director of the office of management and budget who must be appointed by and serve at the will
21 of the governor. The salary of the director must be set by the governor within the limits of the
22 amount appropriated for salaries by the legislative assembly, and the director and other
23 employees of the office must be reimbursed for expenses incurred in carrying out the duties of
24 their office at the same rate and in the same manner as other state officials. The director is
25 empowered to adopt rules, not inconsistent with law or rules established by the governor, for
26 the administration of the office of management and budget, the conduct of its employees, the
27 distribution and performance of its business, and the custody, use, and preservation of the
28 records, documents, and property pertaining thereto. ~~He~~ The director is empowered to set up
29 such divisions or other internal organization within the office that ~~he shall deem~~ the director
30 determines necessary in order to efficiently carry out the duties, powers, and responsibilities of
31 the office.

1 ~~The director of the office of management and budget shall execute an official bond in~~
2 ~~the sum of one hundred thousand dollars.~~

3 **SECTION 19. AMENDMENT.** Subsection 2 of section 54-52-04 of the 1997
4 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5 2. The board shall appoint an executive director to serve at its discretion. The
6 executive director shall ~~be bonded by the state bonding fund in the amount~~
7 ~~required by the board and shall~~ perform such duties as assigned by the board.

8 **SECTION 20. AMENDMENT.** Section 55-02-01.1 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **55-02-01.1. Term of office - Vacancy - Salary and expenses ~~-Bond.~~** The
11 superintendent shall serve at the pleasure of the state historical board and until ~~his~~ a successor
12 is appointed and qualified. In case of vacancy by death, removal, resignation, or any other
13 cause, the board shall fill the vacancy by appointment. The salary must be determined by the
14 board within the limits of legislative appropriation and the superintendent is entitled to
15 compensation for ~~his~~ expenses incurred while in the discharge of ~~his~~ official duties, paid in the
16 same manner and amounts as other state officials are paid, from funds available to the board.
17 ~~Before entering upon his duties, the superintendent shall furnish a bond in the penal sum of ten~~
18 ~~thousand dollars.~~

19 **SECTION 21. AMENDMENT.** Section 61-03-02 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **61-03-02. Oath and ~~bond~~ of state engineer.** Before entering upon the duties of
22 office, the state engineer shall take the oath prescribed for civil officers ~~and shall furnish a bond~~
23 ~~in the penal sum of five thousand dollars, which shall conform to the provisions of law~~
24 ~~applicable to the bonds of state officers.~~

25 **SECTION 22. AMENDMENT.** Section 65-02-02 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **65-02-02. Oath of office ~~-Bond.~~** Before commencing to perform the duties of director
28 of the bureau, the director shall file an oath of office in the usual form ~~and must be bonded by~~
29 ~~the state bonding fund in the sum of five thousand dollars for the faithful discharge of the~~
30 ~~director's duties and the proper accounting for all moneys received by the director.~~

1 **SECTION 23. AMENDMENT.** Section 65-04-30 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **65-04-30. State treasurer is custodian of fund - Deposit - Disbursement on**
4 **vouchers** ~~—Additional bond of treasurer.~~ The state treasurer ~~shall be~~ is the custodian of the
5 fund and all payments of awards of the bureau ~~therefrom~~ for disbursements other than travel
6 and administrative expenses ~~shall~~ must be paid by the state treasurer upon warrant-checks
7 authorized and prepared by the bureau. Warrants drawn upon the fund and paid by the state
8 treasurer ~~shall~~ must be returned to the bureau and ~~shall~~ must be kept in the files ~~thereof~~ of the
9 bureau. The bureau shall submit to the office of management and budget once each month a
10 monthly financial statement showing the receipts, disbursements, investments, and status of
11 the fund. The treasurer may deposit any portion of the fund not needed for immediate use in
12 the manner and subject to the requirements prescribed by law for the deposit by ~~such~~ the
13 treasurer of state funds. Any interest earned by any portion of the fund which is deposited by
14 the state treasurer under ~~the provisions of this section~~ ~~shall~~ must be collected by the state
15 treasurer and placed to the credit of the fund. ~~The state treasurer shall give a separate and~~
16 ~~additional bond in such amount as may be fixed by the governor conditioned for the faithful~~
17 ~~performance of the state treasurer's duties as custodian of the fund.~~

18 **SECTION 24. REPEAL.** Sections 6-01-12, 15-12-06, 20.1-02-12, 27-04-02, 44-01-13,
19 54-06-11, 54-09-06, 54-10-03, 54-11-14, 54-18-08, and 57-01-01 of the North Dakota Century
20 Code are repealed.