

**Fifty-seventh Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 9, 2001**

SENATE BILL NO. 2424  
(Senators Wardner, Robinson, Solberg)  
(Representatives Clark, Lemieux, Wald)

AN ACT to create and enact two new sections to chapter 55-01 of the North Dakota Century Code, relating to the state historical society; to amend and reenact sections 1-08-04.1 and 11-11-53, subsection 7 of section 23-06-27, section 38-14.1-10, subdivision u of subsection 1 of section 38-14.1-14, subsection 2 of section 38-14.1-21, subsection 1 of section 38-14.1-30, subdivision d of subsection 2 of section 38-14.1-37, sections 46-05-01, 54-01-13.1, and 54-02-07, subsection 2 of section 54-06-04, subdivision w of subsection 1 of section 54-07-01.2, sections 54-17.3-05, 54-17.3-07, 54-24-09, 55-01-01, 55-01-02, 55-01-02.1, 55-01-03, 55-01-04, 55-01-05, 55-01-06, 55-01-07, 55-01-10, 55-01-11, 55-02-01, 55-02-01.1, 55-02-01.2, 55-02-01.3, 55-02-03, 55-02-04, 55-02-05, 55-02-06, 55-02-07, 55-02-07.1, 55-02-08, 55-02-09, 55-02.1-02, 55-02.1-05, 55-03-01, 55-03-01.1, 55-03-02, 55-03-03, 55-03-04, and 55-06-01, subsections 9 and 10 of section 55-08-01.3, sections 55-10-02, 55-10-07, 55-10-08, 55-10-09, 55-10-10, 55-10-12, and 57-02-08.7 of the North Dakota Century Code, relating to the duties and responsibilities of the state historical board and the state historical society and changing references from the superintendent of the state historical board to the director of the state historical society; to repeal sections 55-01-08, 55-02-02, 55-10-03, 55-10-04, 55-10-05, and 55-10-06 of the North Dakota Century Code, relating to the maintenance of the Roosevelt cabin, the transfer of property from the state historical society board to the North Dakota park service, and to the designation of historical sites; to provide an effective date; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 1-08-04.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**1-08-04.1. State property having historical or artistic significance - Responsibilities of state historical ~~board~~ society and council on the arts - Review and advice on property for exhibition.** Except for the board of higher education and state institutions under the jurisdiction of the board, every state official or entity that, on behalf of the state, holds, acquires, or receives property having historical or artistic significance shall document and inventory that property on forms furnished by the state historical ~~board~~ society. One copy of the completed form must be retained in the office of that official or entity and one copy must be filed with the state historical ~~board~~ society. The information filed with the ~~board~~ society must include a description of the property, the identity of the donor if acquired by gift, the date the property was acquired or received, any conditions on acceptance of the property if given by gift, and appropriate evidence of ownership. The information must also indicate whether the property is intended for permanent or long-term exhibition on the capitol grounds or in public areas in the state capitol. With respect to property intended for permanent or long-term exhibition on the capitol grounds or in public areas in the state capitol, the state historical ~~board~~ society shall notify the state council on the arts. The council on the arts shall advise the capitol grounds planning commission with respect to permanent or long-term exhibition of ~~such~~ the property on the capitol grounds or in public areas in the capitol. ~~Prior to~~ Before transfer of ownership or other disposal of property documented and inventoried under this section, that property must be offered to the state historical ~~board~~ society for inclusion in its historical collections.

**SECTION 2. AMENDMENT.** Section 11-11-53 of the North Dakota Century Code is amended and reenacted as follows:

**11-11-53. Appropriation for historical works - Authorization of tax levy - Approval of state historical ~~board~~ society and attorney general.**

1. The board of county commissioners of any county may appropriate out of the general fund of the county ~~such a~~ sum, not exceeding five thousand dollars annually, ~~as it may deem advisable,~~ to be paid to the historical society of ~~such the~~ county and used for the promotion of historical work within the borders of ~~such the~~ county, including the collection, preservation, and publication of historical material, and to disseminate historical information of the county, and in general to defray the expense of carrying on historical work in ~~such the~~ county.
2. The board of county commissioners may levy a tax, not exceeding the limitation in subsection 8 of section 57-15-06.7, for the promotion of historical works within the borders of ~~such the~~ county and in general defray the expense of carrying on historical work in the county including the maintenance of any historical room or building, and furthering the work of the historical society of ~~such the~~ county. ~~Such The~~ levy ~~shall be~~ is in addition to any moneys appropriated from the general fund of the county for historical work as provided in subsection 1. The board of county commissioners may, by resolution, submit the question of an additional tax levy to the qualified electors of the county at the next countywide general, primary, or special election. If sixty percent of the qualified electors voting ~~thereon shall~~ on the question approve, a tax ~~shall~~ must be levied not exceeding the limitation in subsection 8 of section 57-15-06.7, which tax may be expended as provided in this section.
3. The appropriation and levy authorized by this section ~~shall~~ may not be used to defray any expenses of a county historical society until it is incorporated under the laws of this state as a nonprofit corporation, is affiliated with and has its articles of incorporation and bylaws approved by the North Dakota state historical ~~board~~ society and the attorney general, and has contracted with the board of county commissioners in regard to the manner in which ~~such the~~ funds received will be expended and the services to be provided. Historical societies ~~which that~~ qualified for county funds under ~~the provisions of~~ subsection 1 ~~prior to before~~ July 1, 1965, ~~shall~~ are not ~~be~~ required to have articles of incorporation and bylaws approved by the attorney general to receive funds under ~~the provisions of~~ subsection 1.

**SECTION 3. AMENDMENT.** Subsection 7 of section 23-06-27 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

7. Subsection 3 does not apply to the inadvertent disturbance of a human burial site, human remains, or burial goods when the state department of health and the state historical ~~board~~ society have been notified of ~~such the~~ disturbance and ~~such the~~ human remains and burial goods ~~shall~~ must be studied and reinterred pursuant to rules adopted by the state department of health and the state historical ~~board~~ society. Subsection 3 also does not apply to situations in which the state department of health and the state historical ~~board~~ society are notified of the need to disinter and move the contents of human burial sites ~~which that~~ are recorded with the state historical ~~board in order~~ society to prevent the destruction of ~~such the~~ human burial sites by actions including the construction of highways, dams, reservoirs, coal mines, power generation and transmission facilities, pipelines, farming practices, and other developments. Where feasible, ~~such the~~ developments should avoid disturbance of the human burial sites. In these situations ~~such the~~ disinterred human remains and burial goods must be studied and reinterred pursuant to rules adopted by the state department of health and the state historical ~~board~~ society.

**SECTION 4. AMENDMENT.** Section 38-14.1-10 of the North Dakota Century Code is amended and reenacted as follows:

**38-14.1-10. Necessity of permit - Exception.** It is unlawful for any operator to engage in surface coal mining operations without first obtaining from the commission a permit to do so, ~~in such form as is hereinafter provided.~~ All existing surface coal mining operations must on July 1, 1979, comply with ~~the provisions of~~ this chapter and all ~~regulations promulgated pursuant thereto~~ rules adopted under the chapter, except that lands from which the coal has been removed ~~prior to before~~ July 1, 1979, are governed by the reclamation standards that were in effect at the time of coal removal from ~~such the~~ lands. ~~Any A~~ person or operator ~~may~~ shall engage in the inventorying and evaluation of

cultural resources upon compliance with section 55-03-01 and may implement a cultural resource mitigation plan approved by the ~~superintendent~~ director of the state historical ~~board~~ prior to society ~~before~~ applying for or receiving an approved surface coal mining and reclamation permit.

**SECTION 5. AMENDMENT.** Subdivision u of subsection 1 of section 38-14.1-14 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- u. Cultural resource information including all of the following:
  - (1) A statement evidencing compliance with the requirements of chapter 55-03.
  - (2) A cultural resource inventory, including all buildings, structures, and objects referred to in section 55-03-01, covering the proposed permit and adjacent area conducted in accordance with guidelines developed by the state historic preservation office and the ~~superintendent~~ director of the state historical ~~board~~ society.
  - (3) An evaluation of each cultural resource site which will be affected by any surface coal mining and reclamation operation. The evaluation must include sufficient information to allow the ~~superintendent~~ director to determine if the cultural resource site is significant in accordance with the national register criteria [36 CFR 60.4] and guidelines established by the ~~superintendent~~ director.
  - (4) An appropriately scaled map identifying the location of each cultural resource site determined significant by the ~~superintendent~~ director within the proposed permit area and the adjacent area.
  - (5) A description of adverse effects on significant cultural resources that may result from the proposed surface coal mining operations.
  - (6) A statement that the permit applicant will inform the ~~superintendent~~ director and the commission of any discovery within the permitted area of previously unrecorded archaeological, cultural, or historic materials and allow reasonable time for the ~~superintendent~~ director to determine the significance of the discovery and, if determined significant, to approve a mitigation plan.
  - (7) A plan approved by the ~~superintendent~~ director that has been or will be used to mitigate adverse effects on significant sites that are known, or a statement that such a plan will be approved and implemented ~~prior to~~ before any adverse effects. Any mitigation plan ~~which that~~ has not begun implementation within five years of plan approval is subject to review by the ~~superintendent~~ director.

**SECTION 6. AMENDMENT.** Subsection 2 of section 38-14.1-21 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 2. The commission's approval or modification of the permit or permit revision application ~~shall~~ must include consideration of the advice and technical assistance of the state historical ~~board~~ society, the state department of health, the state soil conservation committee, the state game and fish department, the state forester, the state geologist, and the state engineer, and may also include those state agencies versed in soils, agronomy, ecology, geology, and hydrology, and other agencies and individuals experienced in reclaiming surface mined lands.

**SECTION 7. AMENDMENT.** Subsection 1 of section 38-14.1-30 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 1. Within thirty days after a permit applicant is notified of a ruling by the commission pursuant to section 38-14.1-20, or after an operator or permittee is issued a notice or order pursuant to subdivision a or b of subsection 1 of section 38-14.1-28, or after the commission disapproves an application for release of all or a portion of a performance bond under

section 38-14.1-17, or after the ~~superintendent~~ director of the state historical ~~board~~ society renders a decision on an application for approval of a cultural resources mitigation plan under section 38-14.1-10 and subdivision u of subsection 1 of section 38-14.1-14, ~~such the~~ applicant, ~~or~~ operator, or permittee, or any person with an interest ~~which that~~ is or may be adversely affected by ~~such the~~ ruling, notice, or order or by an order modifying, vacating, or terminating a notice or order, may request and ~~thereby~~ initiate formal hearing procedures before the commission. The right to ~~such the~~ administrative review is forfeited if not requested within thirty days of ~~such the~~ notification of any ruling or issuance of a notice of violation or order as provided in this subsection. The filing of an application for review under this subsection does not operate as a stay of any order or notice.

**SECTION 8. AMENDMENT.** Subdivision d of subsection 2 of section 38-14.1-37 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- d. The collection of cultural resource information required by subdivision u of subsection 1 of section 38-14.1-14, any other archaeological and historical information required by the ~~superintendent~~ director of the state historical ~~board~~ society, and the preparation of mitigation plans necessitated thereby.

**SECTION 9. AMENDMENT.** Section 46-05-01 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**46-05-01. Newspapers qualified to do legal printing - File copies with state historical society - Publishing notices in adjoining county.** Before any newspaper in this state is qualified to publish any legal notice or any matter required by law to be printed or published in some newspaper in the state, or any public notice for any political subdivision within this state, the newspaper must:

1. Have been established in a regular and continuous circulation of at least one year, with a bona fide subscription list of at least one hundred fifty regular subscribers;
2. Be nonsectarian and printed at least three-fourths in English; and
3. Have been admitted to the United States mails and have complied with the requirements of the federal laws governing periodicals mailing privileges for at least one year.

In the county where no newspaper having the above-prescribed qualifications is published, any newspaper at the county seat of that county is entitled to publish the legal notices even though it may not have been established one year. The owner or publisher of each legal newspaper shall send to the state historical ~~board~~ society, to the address designated by the ~~secretary~~ director, two copies of each issue of the newspaper. In a county in which no newspaper is published, any notice required by law to be published may be published in a newspaper published in an adjoining county and having a general circulation in the county.

**SECTION 10. AMENDMENT.** Section 54-01-13.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-01-13.1. Exchange of lands within Theodore Roosevelt National Memorial Park.** The state of North Dakota is hereby authorized to transfer and convey to the United States of America any lands situated within the Theodore Roosevelt National ~~Memorial~~ Park in the county of Billings, state of North Dakota, including state school lands and lands held by the state historical society or for the use and benefit of the state game and fish department, such transfer and conveyance to be made in exchange for federal lands of not less than equal value situated outside of the Theodore Roosevelt National ~~Memorial~~ Park.

**SECTION 11. AMENDMENT.** Section 54-02-07 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-02-07. Theodore Roosevelt rough rider award.** There shall be awarded by the state of North Dakota in the name of the legislative assembly and the citizens of this state, an award to be known as the Theodore Roosevelt rough rider award. ~~Such The~~ award ~~shall be~~ is the highest recognition by the state of present or former North Dakotans who have been influenced by this state in

achieving national recognition in their fields of endeavor, thereby reflecting credit and honor upon this state and its citizens. The award ~~shall is~~ not be for momentary success, but only for genuine achievements of lasting significance. It is the intent of this section to guard the dignity of the rough rider award for recipients of the past as well as the future. The award, of a type and design approved by the governor, must be awarded by the governor upon the concurrence of the secretary of state and the ~~superintendent~~ director of the state historical ~~board~~ society. A record of all such awards and pertinent information in regard to each recipient must be retained by the state archivist.

**SECTION 12. AMENDMENT.** Subsection 2 of section 54-06-04 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. A committee composed of the ~~superintendent~~ director of the state historical ~~board~~ society, the state librarian, and the secretary of state, or other persons designated to represent them, shall meet at the call of the secretary of state to set the requirements for form, style, materials, and content of biennial reports.

**SECTION 13. AMENDMENT.** Subdivision w of subsection 1 of section 54-07-01.2 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- w. The ~~Yellowstone-Missouri-Fort-Union~~ Yellowstone-Missouri Rivers confluence commission.

**SECTION 14. AMENDMENT.** Section 54-17.3-05 of the North Dakota Century Code is amended and reenacted as follows:

**54-17.3-05. Coordination of quaternary fossil finds.** The state geologist shall notify the ~~superintendent~~ director of the state historical ~~board~~ society of all quaternary paleontological finds reported to the state geologist which potentially or actually contain cultural resources. The treatment of sites containing both paleontological remains and cultural resources ~~will~~ must be handled in a manner jointly agreed upon by the state geologist and the ~~superintendent~~ director. The term cultural resources has the same definition as the term is defined in section 55-03-00.1.

**SECTION 15. AMENDMENT.** Section 54-17.3-07 of the North Dakota Century Code is amended and reenacted as follows:

**54-17.3-07. Transfer of paleontological resources.** The state geologist may exchange with or transfer to universities, colleges, governmental bodies, and scientific institutions duplicate paleontological resources it holds. The state historical ~~board~~ society must receive preference for the receipt of duplicate paleontological resources.

**SECTION 16. AMENDMENT.** Section 54-24-09 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-24-09. Distribution of certain state publications for certain libraries required.** The office of management and budget shall arrange to deposit with the state library eight copies of all publications issued by all executive, legislative, and judicial agencies of state government intended for general public distribution. These publications must be provided to the state library without charge. If expense and limited supply of state publications, particularly audiovisual items, make compliance with the depository requirement impossible, the state library shall accept as many copies as an agency can afford to provide. However, each agency shall provide no less than two copies to the state library. State publications refer to any informational materials regardless of format, method of reproduction, or source, originating in or produced with the imprint of, by the authority of, or at the total or partial expense of, any state agency. The definition incorporates those publications that may or may not be financed by state funds but are released by private bodies such as research and consultant firms under contract with or supervision of any state agency. In circumstances not directly involving the office of management and budget, a state agency shall comply with the depository requirement by arranging with the necessary parties for the printing and deposit of eight copies of any state publication issued. State publications are specifically defined as public documents appearing as reports, directories, statistical compendiums, bibliographies, laws or bills, rules, regulations, newsletters, bulletins, state plans, brochures, periodicals, committee minutes, transcripts of public hearings, other printed matter,

audiotapes, videotapes, films, filmstrips, or slides, but not those administrative or training materials used only within the issuing agency. As the document acquisition and distribution agency, the state library shall retain for its document collection two copies of every state document received and transmit the remaining copies to the depository libraries. These are the libraries of the state historical ~~board society~~, the university of North Dakota, North Dakota state university, library of Congress, and two others to be designated by the state library. All nondepository North Dakota libraries may receive state documents under an optional selection program developed by the state library. The state library shall catalog state publications and arrange for their conversion to microfilm or to optical disk storage prescribed by the state records administrator and shall make available for distribution the same to the designated depository libraries.

**SECTION 17.** A new section to chapter 55-01 of the North Dakota Century Code is created and enacted as follows:

**Definitions.** As used in this chapter, unless the context otherwise requires:

1. "Artifact" means an item that is produced, shaped, used, or selected by humans.
2. "Board" means the state historical board.
3. "Collections" means artifacts or documents acquired and preserved because of the potential value of the artifacts or documents as examples, reference material, or objects of aesthetic or educational importance.
4. "Director" means the chief executive and administrative officer of the state historical society.
5. "Society" means the state historical society of North Dakota.

**SECTION 18. AMENDMENT.** Section 55-01-01 of the North Dakota Century Code is amended and reenacted as follows:

**55-01-01. State historical board.** ~~There is a state historical society of North Dakota which is under the supervision and control of the state historical board. The board consists of twelve members, seven members who of whom are appointed by the governor. Each member appointed to the board must be a citizen and resident of the state of North Dakota. Appointments are for a term of three years from the first day of July to the thirtieth day of June of the third year or until a successor has been appointed and qualified. The governor shall appoint two members for terms commencing in 1996, two members for terms commencing in 1997, and three members for terms commencing in 1998. Vacancies occurring other than by the expiration of an appointive term must be filled by appointment for the remainder of the term only in the same manner as regular appointments. The remaining five members of the board are the secretary of state, director of the parks and recreation department, director of the department of transportation, director of the tourism department, and state treasurer, each of whom may appoint a designee to attend meetings with full voting privileges. The board of directors shall select from its membership a president, vice president, and secretary to serve as officers of the board. The secretary of state, director of the parks and recreation department, director of the department of transportation, director of the tourism department, and state treasurer are ex officio members of the board and shall take care that the interests of the state are protected. Each ex officio member may appoint a designee to attend meetings with full voting privileges.~~

**SECTION 19.** A new section to chapter 55-01 of the North Dakota Century Code is created and enacted as follows:

**State historical society.** The state historical society of North Dakota is created as an agency of the executive branch which is under the supervision and control of the board.

**SECTION 20. AMENDMENT.** Section 55-01-02 of the North Dakota Century Code is amended and reenacted as follows:

**55-01-02. State historical board - Powers - Limitations.** ~~The state historical board is authorized to may:~~

1. Faithfully expend and apply all money received from the state, to the uses and purposes directed by law.
2. Hold all ~~its~~ present and future historical collections and property of the society for the state.
3. Dispose of or transfer ~~such~~ any articles in the collections ~~as~~ it deems appropriate. However, the board may not make any disposal or transfer before hearing an assessment of any proposed disposal or transfer by the ~~superintendent~~ director of the state historical ~~board~~ society. Disposal or transfer is to be by any appropriate means including ~~but not limited to~~ sale or exchange, ~~provided that the~~. The proceeds from the sale of articles must be deposited in the state treasury in a special revolving fund. All moneys in ~~such~~ the fund are ~~hereby~~ appropriated on a continuing basis for the purchase and care of other items for the collections. Unless other conditions are specified in a deed or gift, a reasonable attempt must be made to return articles to the original donor ~~prior to~~ before disposal by any other means.
4. Permit withdrawal from its collections and property of ~~such~~ any articles ~~as may be needed~~ for exhibition purposes under rules prescribed by the board.
5. Permit the withdrawal of books and collections from the library and museum temporarily under ~~such~~ rules as prescribed by the board ~~may prescribe~~.
6. Select and appoint a ~~superintendent~~ director to carry out the policies and directives of the board.
7. Acquire in behalf of the state of North Dakota lands, materials, and easements for historical purposes by lease, purchase, or gift.
8. Set aside for historical purposes ~~such~~ all lands ~~as are now~~ owned by the state and not held or acquired for some other purpose.
9. ~~Supervise, control, care for, maintain, preserve, and develop any such~~ Administer all lands, materials, and easements held for historical purposes as trustees for the state.
10. Administer ~~any such~~ all lands, materials, and easements held for historical purposes as an agent of the national park service, bureau of reclamation, corps of engineers, or any other division of federal, state, or local government.
11. ~~Cooperate with historical societies and associations duly organized under the laws of the state of North Dakota and to provide the same with publications, technical assistance, and advice and administer a grant system to assist with the development and operation of such societies and associations.~~
12. Establish standards by the adoption of rules to create ~~such~~ classes of membership in the ~~state historical society of North Dakota as it deems desirable~~, to determine the qualifications of any class of membership, to set forth the fees for ~~such~~ membership, and to provide for membership benefits.

The board, ~~however~~, may not sell, mortgage, transfer, or dispose of any of its collections or property except as authorized by law.

**SECTION 21. AMENDMENT.** Section 55-01-02.1 of the North Dakota Century Code is amended and reenacted as follows:

**55-01-02.1. Board Society to have jurisdiction over heritage center.** The ~~state historical board~~ society has jurisdiction over the administration and operations of the North Dakota heritage center building. The director of the office of management and budget is responsible for maintenance of the heritage center building. The ~~state historical board is responsible for the maintenance of~~ society shall maintain the ~~board's~~ collections displayed and stored at the heritage center and shall provide, or arrange, for the security of those collections.

**SECTION 22. AMENDMENT.** Section 55-01-03 of the North Dakota Century Code is amended and reenacted as follows:

**55-01-03. Meetings - When held - Quorum - Compensation and expenses of members.** The ~~state historical~~ board shall meet at the call of the president not less than every three months and seven members constitute a quorum. The ~~ex-officio~~ members ~~shall~~ of the board not appointed by the governor may receive no additional compensation for service upon the board but must be paid their expenses when engaged in the discharge of their official duties as members of the board, in the same manner and amounts as other state officers are paid, from funds ~~available~~ appropriated to the board society.

**SECTION 23. AMENDMENT.** Section 55-01-04 of the North Dakota Century Code is amended and reenacted as follows:

**55-01-04. Acceptance of gifts, grants, devises, bequests, donations, and assignments - Deposited with the state treasurer - How expended.** The ~~state historical board~~ society may only receive and accept any grant, devise, bequest, donation, gift, or assignment of money, bonds, choses in action, or any property for any purpose consistent with the statutory responsibilities of the ~~board society~~. The ~~board society~~ must receive and accept the same, and the right and title thereto, in the name of the state. All moneys coming into the hands of the ~~board society~~ as donations, gifts, grants, and bequests, unless by the terms of the donation, gift, grant, or bequest the moneys are required to be maintained in another manner, must be maintained within the state treasury. All rent, interest, or income from land, money, or property received by the ~~board society~~ by donation, gift, grant, or bequest must also be maintained within the state treasury unless by the terms of acquisition the moneys are required to be maintained in a different manner. The moneys must be paid out for the purposes prescribed by the donor ~~upon the approval of~~ as authorized by the ~~state historical~~ board by warrant-check prepared by the office of management and budget.

**SECTION 24. AMENDMENT.** Section 55-01-05 of the North Dakota Century Code is amended and reenacted as follows:

**55-01-05. Land acquired for historical purposes - Title - Placed in custody of ~~old settlers' associations and county historical societies~~.** When land is contributed or purchased ~~as herein provided~~ for historical purposes, the title must vest in the state of North Dakota. ~~Such~~ The land may be placed in the custody of the ~~old settlers' associations~~ county historical societies of the respective counties in which ~~such~~ the sites are located and may be improved and used ~~by them~~ for the accumulation and care of relics of historical interest. ~~Where~~ When it appears that the use and purpose of ~~such~~ the land is a matter of primarily local or regional interest, the state historical ~~board~~ society may, upon such terms, conditions, and consideration as the state historical board may require, transfer and convey the land to a political subdivision or nonprofit corporation where ~~such~~ the interest lay.

**SECTION 25. AMENDMENT.** Section 55-01-06 of the North Dakota Century Code is amended and reenacted as follows:

**55-01-06. Historical collections - Loan to county historical societies - Preservation.** When historical collections or materials are contributed or purchased by the state, they must be placed in the custody of the ~~state historical board~~ society, and those of a local historical nature may be loaned to the county historical societies when proper provision has been made for their care and preservation and when ~~such~~ the county historical society is duly organized and affiliated as provided in section 11-11-53.

**SECTION 26. AMENDMENT.** Section 55-01-07 of the North Dakota Century Code is amended and reenacted as follows:

**55-01-07. Claims incurred by ~~board society~~ - How paid.** All bills or claims against the state, arising by reason of expenditures authorized by the ~~state historical board~~ society for the purposes provided by law, must be submitted on vouchers to the office of the budget for approval and paid by warrant-check prepared by the office of management and budget.



**SECTION 27. AMENDMENT.** Section 55-01-10 of the North Dakota Century Code is amended and reenacted as follows:

**55-01-10. Exchange of lands with other divisions of state government.** ~~The state historical board~~ Upon authorization by the board, the society may transfer and convey certain lands held by the ~~board~~ society to another agency of the state in exchange for lands held by ~~such~~ the other agency, and ~~such~~ the other agency may make the necessary conveyance to transfer and convey lands held by it to the ~~state historical board~~ society to effect ~~such~~ the exchange. ~~Such~~ The transfers may be made at any time the board and another agency deem ~~such~~ an exchange to be mutually advantageous.

**SECTION 28. AMENDMENT.** Section 55-01-11 of the North Dakota Century Code is amended and reenacted as follows:

**55-01-11. State historical society to locate pioneer buildings responsible for the Camp Hancock museum.** ~~The state historical society, with the approval of its board of directors, may locate or place pioneer buildings or structures on the grounds of~~ shall maintain, supervise, and promote the Camp Hancock museum in the city of Bismarck. ~~The maintenance, supervision, and promotion of such pioneer buildings must be under the control and direction of the state historical society.~~

**SECTION 29. AMENDMENT.** Section 55-02-01 of the North Dakota Century Code is amended and reenacted as follows:

**55-02-01. State historical board - Appointment of superintendent director - Duties.** The board shall appoint a ~~superintendent~~ director of the state historical society who shall act as chief administrative and executive officer in carrying out the policies and directives of the board and shall have charge of all employees and activities and shall perform such other duties as may be assigned to the ~~superintendent~~ director by the board.

**SECTION 30. AMENDMENT.** Section 55-02-01.1 of the North Dakota Century Code is amended and reenacted as follows:

**55-02-01.1. Term of office - Vacancy - Salary and expenses.** The ~~superintendent~~ director shall serve at the pleasure of the state historical board and until a successor is appointed and qualified. In case of vacancy by death, removal, resignation, or any other cause, the board shall fill the vacancy by appointment. The salary must be determined by the board within the limits of legislative appropriation ~~and the superintendent.~~ The director is entitled to compensation for expenses incurred while in the discharge of official duties, paid in the same manner and amounts as other state officials are paid, from funds available to the board.

**SECTION 31. AMENDMENT.** Section 55-02-01.2 of the North Dakota Century Code is amended and reenacted as follows:

**55-02-01.2. Duties of the superintendent director.** The ~~superintendent~~ director shall:

1. Collect ~~artifacts,~~ books, maps, charts, and other papers and materials illustrative of the history of this state in particular and of the west generally.
2. ~~Obtain from the early pioneers narratives of their exploits, perils, and adventures.~~
3. Procure facts and statements relative to the history, ~~progress, and decay of our Indian tribes of the state~~ so as to exhibit faithfully the antiquities and the past and present resources and conditions of this state.
4. 3. Purchase books to strengthen the ~~various departments of its collection~~ society's collections and ~~such~~ any other books, maps, charts, microforms, photographs, and other materials ~~as will~~ to facilitate the investigation of historic, scientific, and literary subjects. The secretary of state and all other state departments and agencies including the colleges and universities shall furnish to the ~~superintendent~~ director at least one copy of each state publication produced by that agency.

- 5- 4. ~~Catalog, index, microfilm, or store by optical disk medium and duplicate~~ all of the collections of the ~~board~~ society for the more convenient references of all persons who have occasion to consult the same.
- 6- 5. ~~Prepare annually for publication four quarterly reports of its collections and such other matters relating to the transactions of the board~~ publications relating to the society as may be useful to the public. Such report must be in such form and in such binding as the state historical board shall determine and must be printed by the state. ~~The board shall have charge of society is responsible for the distribution and sale of such the reports and shall account for the proceeds received therefrom to the office of the budget.~~
- 7- 6. Keep the museum exhibition rooms in the North Dakota heritage center open to visitors at all reasonable hours on business days without fee, except that admission fees may be charged for leased exhibitions. Admission fees collected for a leased exhibition must be deposited in a special account in the special revolving fund established under section 55-02-04 and may be used only to pay the associated costs of the exhibition. Any admission fees collected in excess of the costs of a leased exhibition must be deposited in the state general fund.
- 8- 7. Organize, develop, and present educational materials and programs concerning the history of North Dakota for the use, information, and benefit of the public.
8. Cooperate with historical societies and associations duly organized under the laws of the state; provide the historical societies and associations with publications, technical assistance, and advice; and administer a grant system to assist with the development and operation of the societies and associations.

**SECTION 32. AMENDMENT.** Section 55-02-01.3 of the North Dakota Century Code is amended and reenacted as follows:

**55-02-01.3. ~~Survey of historical sites of the state historical society~~ Director to advise director of parks and recreation department.** ~~The superintendent~~ director shall annually visit the ~~state parks and~~ advise the director of the parks and recreation department on all matters pertaining to the preservation of historical and archaeological artifacts; and historical structures, accuracy of signs, markers, visitor center labels, displays, literature relating to the parks, and historical interpretation of in the state parks. These duties may be performed by the ~~superintendent's~~ director's duly designated representative.

**SECTION 33. AMENDMENT.** Section 55-02-03 of the North Dakota Century Code is amended and reenacted as follows:

**55-02-03. Rules to protect property administered by the ~~board~~ state historical society - Penalty.** ~~The superintendent~~ director of the state historical ~~board~~ society, when so authorized by the state historical board, has the power to make and enforce suitable rules ~~and regulations~~ relating to the protection, care, and use of any property administered by the ~~board~~ society and the violation of any ~~such regulation~~ rule constitutes an infraction.

**SECTION 34. AMENDMENT.** Section 55-02-04 of the North Dakota Century Code is amended and reenacted as follows:

**55-02-04. Fees for use of facilities - Concession agreements - Duration - Appropriation.**

1. The superintendent ~~director~~ of the state historical ~~board~~ society when so authorized by the state historical board shall:
  - 4- a. Fix and collect ~~such reasonable fees as it may deem reasonable~~ such reasonable fees for the use of the facilities of any property administered by the ~~board;~~ society.
  - 2- b. Enter into concession agreements or leases with private persons, firms, corporations, or limited liability companies for the operation of any services, including ~~without limitation~~ motels, cabins, or other lodging places, within the areas of any property

administered by the ~~board but no such~~ society. A concession agreement or lease ~~shall may not~~ run for more than twenty years; ~~and~~.

- ~~3.~~ c. Establish fees for admissions, use charges, and services provided by the ~~board~~ society.
2. All revenues collected for services, shipping or postage charges, fees, admissions, use charges, rentals, compensation for concession agreements, or funds received in the normal course of business from concession operations actually carried on by the state as a proprietor must be deposited in the state treasury in a special revolving fund. All moneys in ~~such the~~ fund are ~~hereby~~ appropriated on a continuing basis for expenditure in the course of carrying on the business activities of ~~such the~~ concession operations or providing the services from which the income is derived.

**SECTION 35. AMENDMENT.** Section 55-02-05 of the North Dakota Century Code is amended and reenacted as follows:

**55-02-05. Contracting supervision and maintenance with other divisions of federal and state government - Compensation for expenses incurred.** The ~~superintendent~~ director of the state historical ~~board~~ society, when so authorized by the state historical board, shall, for the purpose of avoiding undue expense or inconvenience, by contract with divisions of federal and state governments or political subdivisions, make suitable arrangements whereby one ~~shall may~~ supervise and maintain the holdings and property of the other. The board, service, department, or division providing ~~such the~~ services is entitled to compensation for actual and necessary expenses incurred in ~~such the~~ amounts, ~~if any, as may be~~ agreed upon.

**SECTION 36. AMENDMENT.** Section 55-02-06 of the North Dakota Century Code is amended and reenacted as follows:

**55-02-06. State historical museum at Pembina - Chateau de Mores.** The ~~superintendent~~ director of the state historical ~~board~~ society shall maintain and operate the state historical museum located at or near the city of Pembina, in the county of Pembina, and shall have custody of and preserve in the museum at Pembina, for the people of the state of North Dakota, objects of primitive Indian art and other articles of historical value to the state which are acquired for ~~such that~~ purpose. The state historical ~~board~~ society may accept gifts, donations, or contributions to be used or expended in the maintenance and operation of the historical museum and may transfer the operation of the museum to the city of Pembina upon such terms and conditions as the state historical board may require. The Chateau de Mores at Medora must be maintained and operated as a historic house museum under the direction of the state historical ~~board~~ society.

**SECTION 37. AMENDMENT.** Section 55-02-07 of the North Dakota Century Code is amended and reenacted as follows:

**55-02-07. Protection of ~~prehistoric or historic~~ historical or archaeological artifacts or sites.** Any historical or archaeological artifact or site that is found or located upon any land owned by the state ~~of North Dakota~~ or its political subdivisions or otherwise comes into its custody or possession and which is, in the opinion of the ~~superintendent~~ director of the state historical society, significant in understanding and interpreting the history and prehistory of the state, may not be destroyed, defaced, altered, removed, or otherwise disposed of in any manner without the approval of the state historical board. Notification of the ~~superintendent's~~ director's opinion of significance must be communicated to the appropriate governing official. The state historical board through the ~~superintendent~~ director shall, within sixty days of written notification to it by the appropriate governing official of the state or political subdivision's desire, need, or intent to destroy, alter, remove, or otherwise dispose of a significant artifact or site, provide ~~said the~~ governing official written direction for the care, protection, excavation, storage, destruction, or other disposition of ~~said the~~ significant artifact or site. ~~It is the responsibility of the~~ The state and its political subdivisions ~~to shall~~ cooperate with the ~~state historical board~~ director in identifying and implementing any reasonable alternative to destruction or alteration of any historical or archaeological artifact or site significant in understanding and interpreting the history and prehistory of the state before the state historical board ~~shall may~~ approve ~~such the~~ demolition or alteration.

**SECTION 38. AMENDMENT.** Section 55-02-07.1 of the North Dakota Century Code is amended and reenacted as follows:

**55-02-07.1. Protection of prehistoric or historic site locational data.** The ~~superintendent~~ director of the state historical ~~board~~ society may limit access to, and release of, information from files of the state historical society of North Dakota which contain data that specifically identifies the location of archaeological, historical, or paleontological sites in North Dakota. No access to, or release of, information from files ~~which~~ that contain ~~such~~ site-specific locational data may be made until the ~~superintendent~~ director is satisfied that the applicant has a reasonable need for the information contained in those files and professionally acceptable qualifications to assure that release of the information will not result in unnecessary destruction of the resource.

**SECTION 39. AMENDMENT.** Section 55-02-08 of the North Dakota Century Code is amended and reenacted as follows:

**55-02-08. Custody and control of former executive mansion - Maintenance responsibility.** The custody and control of the former executive mansion located at 320 Avenue B East in the city of Bismarck, North Dakota, with the legal description of lots 3 and 4, Block 11, Northern Pacific Addition to the city of Bismarck, is the responsibility of the state historical ~~board~~ society.

**SECTION 40. AMENDMENT.** Section 55-02-09 of the North Dakota Century Code is amended and reenacted as follows:

**55-02-09. Historical impact emergency fund - Administration by ~~superintendent~~ director of state historical ~~board~~ society - Emergency commission authorization.** ~~There is hereby created a~~ The director of the state historical society shall administer the historical impact emergency fund ~~to be administered by the superintendent of the state historical board~~ for the purpose of emergency mitigation of adverse effects on cultural resources and historical buildings, structures, or objects in the state. The ~~superintendent~~ director may use the moneys in the historical impact emergency fund only after the emergency commission has authorized the proposed use and expenditure. The historical impact emergency fund may receive moneys by legislative appropriation and by gift, grant, devise, or bequest of any money or property to the fund. The fund is not subject to section 54-44.1-11 and all income and moneys derived from the investment of the fund must be credited to the fund.

**SECTION 41. AMENDMENT.** Section 55-02.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**55-02.1-02. State archivist - Compensation.** The ~~superintendent~~ director of the state historical ~~board~~ society shall employ an archivist in the position of state archivist, who must be under the general supervision of the ~~superintendent~~ director, and any other personnel necessary to administer this chapter. The compensation of personnel employed by the ~~superintendent~~ director must be set within the limits of legislative appropriations.

**SECTION 42. AMENDMENT.** Section 55-02.1-05 of the North Dakota Century Code is amended and reenacted as follows:

**55-02.1-05. Depositories of archival resources.** The state historical ~~board~~ society ~~is~~ the depository of the archival resources of the state. However, the state historical ~~board~~ society may enter into agreements with the state universities or any other public or quasi-public or private institutions, agencies, or corporations to serve as depositories of regional archival resources. The agreements must specify the area to be served by the depositories and the method of assessing, cataloging, housing, preserving, and servicing materials placed by the state archivist in the regional depositories. The state archivist may deposit in regional depositories, with title remaining with the state historical ~~board~~ society, the records of state agencies or their district or regional offices which are primarily located in the geographic area serviced by the depository. All archival resources from central departments, offices, and agencies must be placed in the main archives in the heritage center in Bismarck under the state historical ~~board's~~ society's immediate jurisdiction. However, the state archivist may place archival resources temporarily at a regional depository. The state archivist may take any steps deemed necessary to provide for the safety of archival resources and other articles and

materials entrusted to the archivist's custody in the archives, including temporary removal to safer locations, as may be dictated by any disaster emergency situation.

**SECTION 43. AMENDMENT.** Section 55-03-01 of the North Dakota Century Code is amended and reenacted as follows:

**55-03-01. Permit required to investigate, evaluate, or mitigate adverse effect on cultural resources, historic buildings, structures, or objects - Application - Fee.** Any ~~individual, organization, institution, or company~~ person engaged ~~on one's own behalf or on behalf of another~~ in identifying, evaluating, or mitigating adverse effects on cultural resources, historic buildings, structures, or objects on any lands in North Dakota, under section 106 of the National Historic Preservation Act of 1966 [Pub. L. 89-665; 80 Stat. 915; 16 U.S.C. 470, as amended by Pub. L. 91-243, Pub. L. 93-54, Pub. L. 94-422, and Pub. L. 94-458], 36 CFR 800, or subdivision u of subsection 1 of section 38-14.1-14 ~~must, shall~~ obtain an annual permit from the ~~superintendent~~ director of the state historical ~~board of North Dakota society~~. The permit application must be in the form prescribed by the ~~superintendent~~ director. Each application must be accompanied by a filing fee of one hundred dollars. The ~~superintendent~~ director may waive the fee requirement if the applicant is an instrumentality of the state of North Dakota. Following issuance of the annual permit, the permittee shall submit to the state historical society of North Dakota payment in the amount of fifty dollars with every cultural resources identification, evaluation, and mitigation report submitted to the ~~superintendent~~ director in compliance with the federal and state statutory and regulatory requirements identified in this section. A permittee submitting a report on behalf of a nonprofit corporation formed under chapter 10-33 does not have to pay the fee for filing the report.

**SECTION 44. AMENDMENT.** Section 55-03-01.1 of the North Dakota Century Code is amended and reenacted as follows:

**55-03-01.1. Permit required to investigate, excavate, or otherwise record cultural resources on land owned by an instrumentality of the state of North Dakota and to excavate cultural resources on private land.** Any ~~individual, organization, institution, or company~~ person engaged ~~on one's own behalf or on behalf of another~~ in the investigation, excavation, or other recording of cultural resources on land owned by an instrumentality of the state of North Dakota or in the excavation of cultural resources on private land for any purposes other than those identified in section 55-03-01 first shall obtain a permit from the ~~superintendent~~ director. ~~Such permit may be issued when an application in such form and including such information as prescribed by the superintendent has been filed with such officer. Any such~~ A permit may be granted only for the investigation, excavation, or other recording of cultural resources at the locations described in the application for permit. Each ~~such~~ application must be accompanied by a fee of one hundred dollars.

**SECTION 45. AMENDMENT.** Section 55-03-02 of the North Dakota Century Code is amended and reenacted as follows:

**55-03-02. Contents of permit.** Any A permit issued pursuant to an application made ~~as provided for in~~ under section 55-03-01 or 55-03-01.1 must clearly describe the purpose of the permit and must be in ~~such the~~ form as prescribed by the ~~superintendent~~ director. ~~No~~ A permit may not be granted until the ~~superintendent~~ director is satisfied that the applicant is professionally qualified to conduct that work for which a the permit is required ~~as provided for in section 55-03-01 or 55-03-01.1~~. When the cultural resources are on land owned by an instrumentality of the state of North Dakota, ~~such the~~ permit will may not be granted until the applicant has agreed to deliver to the ~~superintendent~~ director all of the archaeological or historical materials found and removed from ~~such the~~ land. When the cultural resources are on private land, ~~such the~~ permit will may not be granted until the applicant has agreed to deliver to the ~~superintendent~~ director all of the human remains and burial goods, as ~~such terms~~ are defined in section 23-06-27, found and removed from ~~such the~~ land. ~~In all cases, a~~ A permit may not be granted until the applicant has agreed to deliver to the ~~superintendent~~ director copies of all records and reports as determined by the ~~superintendent~~ director to be pertinent to the work performed.

**SECTION 46. AMENDMENT.** Section 55-03-03 of the North Dakota Century Code is amended and reenacted as follows:

**55-03-03. Period for which permit granted - Revocation.** Each permit issued pursuant to an application made as required by ~~under~~ section 55-03-01 terminates on December thirty-first of the year in which it is issued. Any permit issued pursuant to the provisions of ~~under~~ section 55-03-01 or 55-03-01.1 may be revoked by the ~~superintendent~~ director at any time if it appears to ~~such officer~~ that any identification, evaluation, or mitigation of adverse effects on cultural resources, historic buildings, structures, or objects performed by the permittee are being conducted negligently or improperly, or without regard for the careful preservation and conservation of the artifacts and materials they contain.

**SECTION 47. AMENDMENT.** Section 55-03-04 of the North Dakota Century Code is amended and reenacted as follows:

**55-03-04. Fees deposited in revolving fund - Use.** All fees collected by the ~~superintendent~~ director under the provisions of sections 55-03-01 and 55-03-01.1 must be deposited in the revolving fund of the state historical ~~board~~ society and must be used by the ~~superintendent~~ director for making investigations of permit applicants and for the management and analysis of records and artifacts submitted to the ~~superintendent~~ director under the provisions of sections 55-03-01, 55-03-01.1, and 55-03-02.

**SECTION 48. AMENDMENT.** Section 55-06-01 of the North Dakota Century Code is amended and reenacted as follows:

**55-06-01. ~~Yellowstone-Missouri-Fort-Union~~ Yellowstone-Missouri Rivers confluence commission.** There is a ~~Yellowstone-Missouri-Fort-Union~~ Yellowstone-Missouri Rivers confluence commission, ~~hereinafter referred to as the "commission", declared to be.~~ The commission is a governmental agency with the authority to exercise the powers specified herein, or which may be reasonably implied; ~~The commission is~~ composed of the governor as chairman, the president of the senate, the speaker of the house, the ~~superintendent~~ director of the state historical ~~board~~ society, the director of the department of economic development and finance, all ex officio, and five citizens of the state to be appointed by the governor who shall serve without compensation for the purpose of investigating, in cooperation with the state of Montana and the national park service, the historical importance and significance of the confluence area and for formulating and executing plans for the preservation of the historic sites illustrative of the history of the United States. The commission may expend its operating expenses and other funds provided by legislative appropriations, and public and private grants, for programs, improvements, and facilities to preserve and improve the Yellowstone-Missouri confluence area.

**SECTION 49. AMENDMENT.** Subsections 9 and 10 of section 55-08-01.3 of the North Dakota Century Code are amended and reenacted as follows:

9. Seek the advice of the ~~superintendent~~ director of the state historical ~~board~~ society on all matters relating to history, prehistory, and paleontology of the state parks. ~~If additional assistance is needed or required, the superintendent shall coordinate the assistance.~~
10. Advise in advance and consult with the ~~superintendent~~ director of the state historical ~~board~~ society before undertaking any earthmoving operations or major constructions so that the director may be advised whether the earthmoving operations or constructions might endanger historical or archaeological artifacts or the paleontological value of the area. The ~~superintendent~~ director of the state historical ~~board~~ society and the director shall jointly agree on the disposition of historical artifacts and archaeological material at ~~state monuments and~~ state parks.

**SECTION 50. AMENDMENT.** Section 55-10-02 of the North Dakota Century Code is amended and reenacted as follows:

**55-10-02. Definitions.**

1. Land or water areas containing historic or archaeological value for the purpose of this chapter are designated as "state historic sites". A state historic site is also an area designated by the state historical society of ~~North Dakota~~ as a site possessing historical

value of state or national significance. The term state historic site includes the items defined in this section.

2. A "state historical marker" is a plaque, sign, or marker authorized by the state historical society of ~~North Dakota~~ and includes markers maintained by the department of transportation, the state parks and recreation department, or other departments or agencies of the state and its governmental subdivisions.
3. A "state archaeological site" is an area; ~~that primarily relating~~ relates to prehistoric man, designated by the state historical society of ~~North Dakota~~ as possessing state or national significance.
4. The "state historic sites registry" ~~must be~~ is a listing of sites designated by the state historical board as state historic sites according to written criteria established by the board ~~and including but not limited to sites enumerated in this chapter~~. Sites ~~which that~~ have lost characteristics for which they were determined to meet the criteria may be removed from the registry by the state historical board. This registry, and any subsequent annual updates ~~thereto~~, must be published and distributed.

**SECTION 51. AMENDMENT.** Section 55-10-07 of the North Dakota Century Code is amended and reenacted as follows:

**55-10-07. Notice to state historical ~~board~~ society of land acquisition.** Whenever the state or any governmental subdivision acquires any of the property listed in the state historic sites registry, ~~as defined in subsection 4 of section 55-10-02~~, as a state historic site, ~~it is the duty of the officer in charge of such the acquisition to shall~~ shall notify in writing, as promptly as may be expedient, the ~~superintendent director~~ director of the state historical ~~board~~ society of ~~such the~~ acquisition.

**SECTION 52. AMENDMENT.** Section 55-10-08 of the North Dakota Century Code is amended and reenacted as follows:

**55-10-08. Duties of the state and governmental political subdivisions in regard to state historic sites - Historic easements - Prohibitions.**

1. The state, its departments and agencies; and ~~each city, county, school district, and other body corporate and politic;~~ political subdivision are by this chapter notified of the existence of state historic sites on land and water areas in North Dakota listed in the state historic sites registry, ~~as defined in subsection 4 of section 55-10-02~~.
2. The state or ~~any of the instrumentalities of government enumerated in subsection 4 a~~ political subdivision may not demolish or cause to alter the physical features or historic character of any site listed in the state historic sites registry, ~~defined in subsection 4 of section 55-10-02~~, as a state historic site without first obtaining the prior approval ~~thereof~~ from the ~~superintendent director~~ director of the state historical ~~board~~ society upon authorization of the state historical board. ~~It is the responsibility of the~~ The state or instrumentalities of government enumerated in subsection 4 to and political subdivisions shall cooperate with the ~~director of the state historical board~~ director of the state historical board society in identifying and implementing any reasonable alternative to demolition or alteration of any state historic site before the board approves ~~such the~~ the demolition or alteration.
3. The state or ~~any of the instrumentalities of government enumerated in subsection 4 a~~ political subdivision may acquire fee title to a state historic site, or property listed in the national register of historic places, or may acquire a historic easement with respect to a privately owned state historic site, or property listed in the national register of historic places, and buildings and structures thereon when restored, reconstructed, or improved in accordance with plans approved by the ~~superintendent director~~ director of the state historical ~~board~~ society. A historic easement is:

- a. A nonpossessory interest in the real property, imposing limitations or affirmative obligations the purposes of which include preserving the historic aspects of the property as so restored, reconstructed, or improved;
  - b. Created and capable of being conveyed, recorded, assigned, released, modified, terminated, or otherwise altered or affected in the same manner as other easements, except as otherwise provided in this subsection; provided, that no right or duty in favor of or against a holder or another party having a right of enforcement arises under a historic easement before it is accepted by the holder and the acceptance is recorded;
  - c. Held by the grantee for the benefit of its citizens and the people of the state generally;
  - d. Specifically enforceable by the grantee or, if so provided by the grant, by the state or ~~another instrumentality of government enumerated in subsection 1~~ a political subdivision;
  - e. Binding upon the holder of the servient tenement and that person's successors and assigns;
  - f. Limited to a term of years provided in the grant and approved by the ~~superintendent~~ director of the state historical ~~board~~ society, not exceeding the estimated useful life of the real property as restored, reconstructed, or improved, and not less than the term of any loan made by the holder to finance in whole or in part the cost of the restoration, reconstruction, or improvement;
  - g. Subject to no other legal limitation upon the duration of estates or of restraint on the alienation thereof, except the limitation contained in section 47-05-02.1; and
  - h. Subordinate to any interest existing when the easement is created, in the real property affected thereby, unless the owner of the interest is the grantor of the easement or consents to it.
4. A historic easement is valid even though:
- a. It is not appurtenant to an interest in real property;
  - b. It can be or has been assigned to another holder;
  - c. It is not of a character that has been recognized traditionally at common law;
  - d. It imposes a negative burden;
  - e. It imposes affirmative obligations upon the owner of an interest in the burdened property or upon the holder;
  - f. The benefit does not touch or concern real property; or
  - g. There is no privity of estate or of contract.
5. A project comprising the acquisition of a state historic site or of a historic easement with reference thereto, and the restoration, reconstruction, and improvement of the site and buildings and structures thereon to preserve physical characteristics of historic importance, is declared to be a proper and necessary purpose for the expenditure of public funds. The proceeds of tax increments or bonds or both may be expended by a city for such a project within an urban renewal area when determined by the governing body to be desirable for the redevelopment, rehabilitation, and conservation of the area in accordance with ~~the provisions of chapter 40-58.~~
6. If any state agency or department or a ~~city, county, school district, or other~~ political subdivision objects to any decision of the state historical board to disallow alteration or demolition of a site listed on the state ~~historical~~ historic sites registry, the objecting party may submit the objection to arbitration ~~as provided in this subsection.~~ Arbitration may also



be demanded by either the board or the objecting party if the board or the objecting party determines that the other has failed to cooperate in identifying or implementing reasonable alternatives to demolition or alteration. The party desiring arbitration shall make a written demand therefor of the other and in ~~such~~ the demand shall name three arbitrators. The demand must also set forth the objections ~~which that~~ the party desires to submit to arbitration, with reference to the particular state historic site. The demand must be made within ninety days of a decision by the board. The demand must be served upon the other party, which, within ten days, shall name in writing three arbitrators, and ~~in connection therewith shall~~ set forth in writing its response to the objections set forth in the demand served upon it and any additional objections ~~which that~~ it desires to submit to arbitration on its part. The six arbitrators ~~so~~ selected shall name a seventh arbitrator. If the party proceeded against fails or refuses to name three arbitrators, the moving party may apply ex parte to the judge of the district court of the county in which the state historical site in question, or any part thereof, ~~may be~~ is located, for the appointment of the unnamed arbitrators, ~~and if~~. If upon the appointment of three arbitrators by each of the parties, the six ~~so appointed~~ have been unable to agree upon a seventh arbitrator within five days, ~~then~~ either party, upon five days' notice may apply to the district court for the appointment of the seventh arbitrator. The political subdivision may select its arbitrators from among the governing board of the affected political subdivision, from any regular or special committee appointed by the governing board, whether serving on such governing board or not, or from any combination thereof. A state agency may select its arbitrators from its officers or employees. The state historical board may select its arbitrators from among the board itself, from an executive committee of the board, or from any combination thereof. When a panel of arbitrators has been appointed, a submission in writing must be acknowledged by the parties ~~thereto~~ in the same manner as a conveyance of real property and may fix the time on or before which the award must be made. The submission must provide for the entry of judgment upon the award by the district court of the county within which the state historical site or some part thereof is located. The submission must also provide that each party shall bear its own arbitration costs and expenses, however, the costs and expenses relating to the seventh arbitrator must be borne equally by both parties to the dispute. The seven arbitrators shall proceed to resolve the controversies brought before them, and the decision of the arbitrators, or a majority of them, must be given in writing to the parties concerned and is binding upon both parties. Thereafter, the arbitration must proceed in accordance with ~~the provisions of~~ chapter 32-29.2.

**SECTION 53. AMENDMENT.** Section 55-10-09 of the North Dakota Century Code is amended and reenacted as follows:

**55-10-09. Cooperation.** The state and its ~~governmental~~ political subdivisions shall cooperate with the ~~superintendent~~ director of the state historical ~~board~~ society in safeguarding state historic sites and in the preservation of historic and archaeological sites.

**SECTION 54. AMENDMENT.** Section 55-10-10 of the North Dakota Century Code is amended and reenacted as follows:

**55-10-10. North Dakota historic sites - Changes.** Sites designated as state historic sites by ~~sections 55-10-03, 55-10-04, 55-10-05, and 55-10-06~~ may be changed from time to time, ~~and the superintendent.~~ The director of the state historical ~~board~~ society shall notify the legislative assembly of ~~the needs for such changes and make recommendations in regard thereto so that the registries of historic sites may be kept current and complete~~ each change.

**SECTION 55. AMENDMENT.** Section 55-10-12 of the North Dakota Century Code is amended and reenacted as follows:

**55-10-12. Authority to mark sites.** The ~~superintendent~~ director of the state historical ~~board~~ society may authorize, fund, and place state historical markers, ~~as defined by subsection 2 of section 55-10-02,~~ on any site listed in the state historic sites registry. This includes authority to negotiate with private property owners to mark privately owned sites but does not include agreements to pay private property owners compensation to mark ~~such~~ the property.

**SECTION 56. AMENDMENT.** Section 57-02-08.7 of the North Dakota Century Code is amended and reenacted as follows:

**57-02-08.7. License fee in lieu of property taxes on leases for tourism or concession purposes.** Payment of the license fee as provided in this section by the lessee of any leasehold interest in state-owned property leased from the ~~superintendent~~ director of the state historical ~~board~~ society or the director of the parks and recreation department is a payment in lieu of all ad valorem taxes on the leasehold interest or any associated building or other improvement if the lessee uses the property, building, or other improvement primarily for tourism or concession purposes. The ~~superintendent~~ director of the state historical society or the director of the parks and recreation department shall establish the license fee at an annual amount not less than one dollar and not more than one percent of the gross receipts from the tourism or concession enterprise. The lessee shall pay the license fee to the treasurer of the county in which the tourism or concession enterprise is located and all fees received under this section must be deposited in the county general fund. The lease must indicate that the ~~superintendent~~ director of the state historical society or the director of the parks and recreation department approves use of the property primarily for tourism or concession purposes and intends the license fee paid by the lessee to be in lieu of ad valorem taxes.

**SECTION 57. REPEAL.** Sections 55-01-08, 55-02-02, 55-10-03, 55-10-04, 55-10-05, and 55-10-06 of the North Dakota Century Code are repealed.

**SECTION 58. EFFECTIVE DATE.** This Act becomes effective on July 1, 2001.

**SECTION 59. EMERGENCY.** This Act is declared to be an emergency measure.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2424 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote:      Yeas        49            Nays        0            Absent      0

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote:      Yeas        91            Nays        1            Absent      6

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2001.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2001.

\_\_\_\_\_  
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\_\_\_\_\_  
Secretary of State