

**2003
NORTH DAKOTA
CENTURY CODE
TITLE SUMMARIES**

LEGISLATIVE COUNCIL
STATE CAPITOL
BISMARCK, ND 58505

TITLE 1
General Provisions
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 1. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

House Bill No. 1059 ends the prohibition against service of civil process on election day. The bill retains a prohibition on serving civil process on any individual within 100 feet from an entrance to a polling place if the individual is entitled to vote at the election.

Senate Bill No. 2410 establishes the annual observation of First Nations Day to recognize the indigenous peoples of North Dakota and their contributions to the state and the United States. The bill requires the Governor to issue a proclamation each year designating the Friday before the second Monday in October as First Nations Day.

May 2003

TITLE 2
Aeronautics
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 2. Bills primarily affecting other titles may affect this title, but those bills are not summarized in this memorandum.

Senate Bill No. 2178 provides for the disposition of municipal airport authority and regional airport authority property upon dissolution. The bill requires the property of a municipal airport authority to be transferred to the municipality or sold. The bill requires the property of a regional airport authority to be sold, transferred, or distributed as agreed by the participating municipalities and any remaining funds be distributed to the general funds of participating municipalities in proportion to their support of the authority.

Senate Bill No. 2254 requires that a commercial aerial sprayer apply for an aerial spraying license in the name of the business. The bill changes the fee for an aerial spraying license from \$15 to a fee not to exceed \$200.

May 2003

TITLE 3
Agency
Summary of Bills Enacted by 2003 Legislative Assembly

There was no legislation enacted that primarily affected North Dakota Century Code Title 3. Bills primarily affecting other titles may affect this title, but those bills are not summarized in this memorandum.

TITLE 4

Agriculture

Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 4. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

AGRICULTURE COMMISSIONER

Senate Bill No. 2009 appropriates \$4,188,525 to the Agriculture Commissioner, authorizes the agriculture in the classroom council to provide grants and contracts to entities that conduct an agriculture in the classroom program, extends "Project Safe Send" through June 30, 2007, and raises from \$50 to \$100 the fee for registering pet foods distributed in the state.

PESTICIDES

House Bill No. 1066 provides for the continuation of the pesticide and pesticide container disposal program known as "Project Safe Send" through July 31, 2005.

Senate Bill No. 2081 allows the Agriculture Commissioner to issue experimental use permits governing certain pesticides provided the commissioner is authorized to do so by the administrator of the Environmental Protection Agency.

Senate Bill No. 2082 provides that a public applicator is an employee of a state or federal agency, municipality, public utility, or other governmental agency who applies pesticides and who must be certified under Chapter 4-35.

WHEAT COMMISSION

House Bill No. 1158 provides that the Wheat Commission's nominating commission must include the president of the North Dakota Grain Growers Association and an individual who is a resident of the state and a member of the United States Durum Growers Association.

House Bill No. 1486 provides that the Wheat Commission may use the amount raised by up to two mills of the wheat levy to provide or to contract for the provision of market maintenance and development services, utilization research, transportation research, and education, and to address domestic policy issues.

SEEDS

Senate Bill No. 2124 updates references to a federal law governing tolerances for seed labeling.

Senate Bill No. 2206 repeals changes to the seed laws that would have taken effect on August 1, 2003, and which would have raised the tolerance for restricted noxious weed seeds from 25 seeds to 90 seeds per pound.

Senate Bill No. 2256 provides that records of any plant or seed analysis or testing and variety or disease determination conducted by the State Seed Department on a fee-for-service basis for nonpublic entities and certain proprietary information and trade secrets are exempt from the state's open record requirements.

MISCELLANEOUS

House Bill No. 1009 appropriates \$581,750 for the State Fair Association and raises the compensation of State Fair Board members from \$10 to \$75 per day.

House Bill No. 1129 updates references to federal standards that govern milk and milk products and changes the time for submission of assessments to the last day of the month following the month in which the milk was marketed.

House Bill No. 1167 removes references to annual reports that must be included in the State Board of Higher Education's biennial report to the Governor because the board is not required to provide a biennial report to the Governor.

House Bill No. 1420 imposes additional recording requirements regarding cattle transactions on livestock auction markets, dealers, and any person subject to assessment under Chapter 4-34 and provides that the per head assessment is the higher of either 50 cents or the amount allowable under the federal Beef Promotion and Research Act of 1985.

Senate Bill No. 2199 allows the chairman of the Soil Conservation Committee to serve for a total of three 1-year terms and requires newly elected or appointed soil conservation district supervisors to attend a training session delivered by the State Soil Conservation Committee.

Senate Bill No. 2222 provides for an ethanol production incentive for ethanol production facilities constructed after July 31, 2003. The incentive is based on the price per bushel of corn and the rack price per gallon of ethanol.

Senate Bill No. 2326 updates and clarifies the statutes regarding the licensure of wholesale potato dealers and the process to be followed by the State Seed Commissioner in taking action against the bond of a licensed dealer.

Senate Bill No. 2385 repeals sections of law pertaining to state organic food standards, requires that organic certifying agents be accredited by the United States Department of Agriculture, and requires that such certifying agents register with the Agriculture Commissioner.

May 2003

TITLE 5
Alcoholic Beverages
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 5. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

Senate Bill No. 2159 requires labels for each brand of wine produced by a farm winery to be registered with the Tax Commissioner instead of the State Treasurer.

House Bill No. 1298 changes a farm winery license to a domestic winery license. The bill allows the Tax Commissioner to grant an exception to the rule that a majority of the ingredients by volume must be produced in this state. The exception must be based on natural causes. The bill allows for a special event permit for a domestic winery.

House Bill No. 1437 allows an Indian tribe to issue a retail alcoholic beverage license within the exterior boundaries of the tribe, including event permits and Sunday alcoholic beverage permits.

Senate Bill No. 2190 allows a person under 21 years of age to enter a licensed premises for training, education, or research purposes if under the supervision of a person 21 years of age or older and with prior notification of the local licensing authority.

May 2003

TITLE 6

Banks and Banking

Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 6. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to banks and banking may be classified into four subject areas: Bank of North Dakota; records and confidentiality of information; credit unions; and miscellaneous.

BANK OF NORTH DAKOTA

House Bill No. 1116 expands through July 31, 2007, the loan authority of the Bank of North Dakota to include a guarantee of a loan and expands the loan authority of the Bank of North Dakota to include a loan to an investment company created for completing a trust preferred securities transaction for the benefit of a financial institution located in the state.

House Bill No. 1118 provides that the Bank of North Dakota may transfer between the beginning farmers loan fund and the agriculture partnership in assisting community expansion fund any unobligated funds for interest buydown.

House Bill No. 1321 authorizes the Bank of North Dakota to guarantee certain loans for the purchase of agricultural real estate or the restructuring of agricultural real estate loans if the transaction does not exceed a loan to value ratio of 80 percent and if the loan does not exceed \$400,000. The maximum outstanding loan guarantees under this program is \$5 million. The bill expires August 1, 2007.

Senate Bill No. 2335 authorizes the Bank of North Dakota to invest an amount not to exceed \$5 million in North Dakota alternative and venture capital investments and early-stage capital funds, including the North Dakota Development Fund, Inc., and provides that the Bank shall request from the Industrial Commission a transfer from the student loan trust fund to reimburse the Bank for any losses incurred from these investments.

Senate Bill No. 2360 provides the Bank of North Dakota shall administer a loan program to assist residents who are students in a truckdriver training program offered in this state. The bill expires July 1, 2007.

RECORDS AND CONFIDENTIALITY OF INFORMATION

House Bill No. 1478 clarifies that for purposes of application of the banking financial privacy law, a customer must be a resident of or be domiciled in this state and that a financial institution must be physically located in this state; provides that a financial institution may disclose customer information without a customer's consent if the disclosure complies with the general exceptions under Section 502(e) of the federal Financial Services Modernization Act of 1999, which is also known as the federal Gramm-Leach-Bliley Act; provides the joint marketing agreement exception under Section 502(b)(2) of the federal Financial Services Modernization Act of 1999 does not authorize a financial institution to disclose a customer's information absent customer authorization; and provides the State Banking Board and the State Credit Union Board shall adopt rules to implement portions of this bill.

House Bill No. 1104 modifies existing exemptions from the banking financial privacy law. This bill provides certain disclosures of information by the Industrial Commission in the capacity as the managing body of the Bank of North Dakota are exempt from the banking financial privacy law if the information is related to financing or security obtained through the Bank of North Dakota for purposes other than personal, family, or household purposes.

Senate Bill No. 2191 allows a financial institution to make and retain a copy of a motor vehicle operator's license or permit or a nondriver's photo identification card in connection with the process of verifying the identity of a customer or potential customer.

CREDIT UNIONS

House Bill No. 1270 removes the requirement that a credit union loan officer notify the credit union credit committee of each approved or nonapproved loan and removes the requirement that the credit union credit committee act upon all nonapproved loans.

Senate Bill No. 2183 changes the circumstances under which a credit union may distribute funds from a reserve fund as required by the National Credit Union Administration. The bill provides that instead of being distributed only upon liquidation, funds may be distributed upon prior approval of the State Credit Union Board.

MISCELLANEOUS

House Bill No. 1355 changes the escrow account information required to be provided by a bank or credit union to a mortgagor at the time of the execution of a residential mortgage and annually thereafter, removing previously required information regarding whether interest is offered on the account.

Senate Bill No. 2044 clarifies the terms under which a civil penalty is available for failure to pay a nonsufficient fund check and any collection fees or costs.

Senate Bill No. 2129 removes the provision that limited banking associations to quarterly, semiannual, or annual payment of dividends and to quarterly, semiannual, or annual conversion of earnings into a surplus fund.

Senate Bill No. 2261 provides the North Dakota Municipal Bond Bank may take certain actions to assist the state or a state agency in making, entering, and enforcing all contracts or agreements for the purpose of leasing all or part of or an undivided or other interest in property.

Senate Bill No. 2267 provides that an out-of-state bank and a North Dakota bank are subject to the same restrictions on establishing, acquiring, or retaining a North Dakota branch bank; creates a definition of the term "transaction" as that term applies to the interstate branching laws; and replaces the use of the term "merger" with the term "transaction."

May 2003

TITLE 7
Building and Loan Associations
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 7. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1355 changes the escrow account information required to be provided by a savings and loan association to a mortgagor at the time of the execution of a residential mortgage and annually thereafter, removing information regarding whether interest is offered on the account.

May 2003

TITLE 8
Carriage
Summary of Bills Enacted by 2003 Legislative Assembly

There was no legislation enacted which primarily affected North Dakota Century Code Title 8. Bills primarily affecting other titles may affect this title, but those bills are not summarized in this memorandum.

May 2003

TITLE 9
Contracts and Obligations
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 9. Bills primarily affecting other titles may affect this title, but those bills are not summarized in this memorandum.

Senate Bill No. 2157 repeals existing athlete agents law and replaces it with the Uniform Athlete Agents Act.

TITLE 10

Corporations

Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 10. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to corporations may be classified in the subject area of business entities, securities, and the North Dakota Development Fund, Incorporated.

BUSINESS ENTITIES

House Bill No. 1362 provides for extensive grammatical changes, technical clarifications, and substantive changes to the laws relating to business corporations, limited liability companies, and nonprofit corporations. The substantive changes include provisions recognizing certain electronic documents, electronic signatures, and electronic and remote communications; modifying terms of and the impact of mergers; recognizing the confidentiality of Social Security numbers and federal tax identification numbers contained in documents filed with the Secretary of State; and changing the circumstances under which initial bylaws may be amended or repealed. Additionally, the bill amends the definition of professional service as that term is used in the Professional Organizations Act, providing the term means a personal service to the public which requires a license and as a condition of licensure requires an undergraduate or advanced college degree.

Senate Bill No. 2348 revises the law relating to transactions by a corporation doing business as a hospital. The revisions include changing the reach of the law to transactions by nonprofit corporations operating or controlling a hospital or nursing home; changing the circumstances under which and the procedure by which a nonprofit corporation would be required and would not be required to notify the Attorney General of a pending transaction; modifying the factors the Attorney General must consider in reviewing a proposed transaction; providing that a contract entered by the Attorney General with an expert to review a proposed transaction does not require a bid and is exempt from the state bidding and procurement provisions; providing a continuing appropriation to pay the costs of the Attorney General related to these proposed transactions; providing the procedure for bringing a district court action related to these proposed transactions; and providing the powers of the Attorney General in these proposed transactions.

House Bill No. 1106 provides that following acquisition of farmland or ranchland by a nonprofit organization, the manner of valuation of that land for purposes of making payments in lieu of property taxes is to be the same as for tax assessment for other real property.

SECURITIES

House Bill No. 1276 expands the securities-exempt transactions applicable to sales to the public by a registered dealer to include securities filed under Section 13 or 15(d) of the federal Securities and Exchange Act of 1934.

Senate Bill No. 2084 provides extensive changes to the securities law, including changing the name of the Office of the Securities Commissioner to the State Securities Department; clarifying the definition of "dealer" as it applies to securities; providing for a securities investor education

and technology fund; modifying the exempt securities and the procedure for continued exemption; providing the registration of dealers, agents, investment advisers, and investment adviser representatives is January through December; and providing the timeframe within which the Securities Commissioner shall schedule a hearing for certain actions.

NORTH DAKOTA DEVELOPMENT FUND, INCORPORATED

Senate Bill No. 2274 provides that the director of the Department of Commerce Division of Economic Development and Finance appoints the chief executive officer of the North Dakota Development Fund, Incorporated.

Senate Bill No. 2335 authorizes the North Dakota Development Fund, Incorporated, to borrow funds not to exceed \$5 million from the Bank of North Dakota for investing in North Dakota alternative and venture capital investments and early-stage capital funds.

TITLE 11

Counties

Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 11. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to counties may be classified in the subject areas of county officers and powers and duties of counties.

COUNTY OFFICERS

House Bill No. 1262 provides that a member of a board of county commissioners who is appointed to serve on another board by the board of county commissioners or who is a member of another board because of the individual's status as a member of the board of county commissioners may serve on the other board only so long as the individual is a member of the board of county commissioners. The bill authorizes the board of county commissioners to reappoint the individual to serve on the other board after the individual is no longer a member of the board of county commissioners if membership on the board of county commissioners is not a requirement of membership on the other board.

Senate Bill No. 2043 provides that the county and state offices performing restitution collection and enforcement activities as of April 1, 2001, are to continue to perform those activities. The bill also provides that in counties in which a county office performs those activities, the county may transfer responsibility for the activities to another county office.

Senate Bill No. 2056 increases from one year to three years the term of office of an appointed county park commissioner.

House Bill No. 1092 provides that a document that includes a Social Security number may not be filed or recorded with a county recorder unless a law requires the Social Security number to be in the document in order to be filed or recorded. The bill provides that a document that is required to contain a Social Security number may be recorded in the real estate records with the Social Security number redacted. The bill also provides that the recorder is not required to redact the Social Security number of an individual when a copy of a document that includes the Social Security number is requested unless the document was filed or recorded with the recorder after April 21, 2003. The bill provides that a document, such as a marriage license or a birth or death certificate, which must include a Social Security number may be processed and recorded, but the Social Security number is confidential and must be redacted before a copy or certified copy may be provided to the public.

POWERS AND DUTIES OF COUNTIES

Senate Bill No. 2331 authorizes a board of county commissioners to establish or maintain programs and activities for the benefit of nonprofit organizations that assist the arts, including the expansion of existing programs. The bill allows a board of county commissioners to expend funds received from county, state, federal, or private sources for the public purposes of assisting the arts. The bill provides that a board of county commissioners may not make an expenditure to defray expenses or to assist an organization unless that organization is

incorporated as a nonprofit corporation and has contracted with the board with respect to the manner in which the funds will be expended and the services provided.

House Bill No. 1246 authorizes a county that has adopted a home rule charter to impose a penalty for a violation of an ordinance through a citation, a criminal complaint, or an information through the district court in which the offense occurred. The bill provides that the penalty for a violation of a county ordinance may be an infraction or a Class B misdemeanor.

House Bill No. 1207 authorizes a political subdivision located near the junction of two paved and divided multilane highways, where two competing railroad intermodal lines intersect, and where two Class I railroads interchange freight cars to create a municipal port authority. The bill also allows two or more political subdivisions to establish a regional port authority. The bill authorizes a port authority to issue bonds and levy taxes for the support of the port authority. The bill authorizes a port authority to operate a port for the convenience of handling equipment, passengers, and freight as part of the port facility's operation.

House Bill No. 1426 authorizes one or more political subdivisions to form a commerce authority to promote and stimulate commerce and economic development, increase the volume of commerce within the jurisdiction, and support the creation and expansion of new and existing businesses and industries. The bill authorizes the commerce authority to borrow money, issue bonds, and certify to the governing bodies participating in the authority a tax levy for the support of the authority. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on April 11, 2003.

Senate Bill No. 2173 provides that if directed by the board of county commissioners, the county treasurer must keep a separate fund for a job development authority for the proceeds of any designated portion of a levy for promotion of tourism by the job development authority. The bill provides that the promotion of tourism may be among the purposes of a job development authority. The bill is effective for taxable events beginning after December 31, 2002.

Senate Bill No. 2214 removes the \$100 maximum and \$10 minimum amounts for rewards offered by a board of county commissioners. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on March 21, 2003.

Senate Bill No. 2096 provides that sales and use taxes levied by a home rule county after December 31, 2005, must conform with provisions of the streamlined sales and use tax agreement.

Senate Bill No. 2104 provides that a structure is deemed to have significant impact on the transportation system if, over a period of one year, the structure will have an average daily usage of at least 25 motor vehicles with a gross weight exceeding 60,000 pounds. The bill increases the average daily usage number from 10 to 25 motor vehicles.

May 2003

TITLE 12

Corrections, Parole, and Probation

Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 12. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to corrections, parole, and probation may be classified in these subject areas: correctional facilities; offenders; interstate compacts; and criminal justice agencies.

CORRECTIONAL FACILITIES

House Bill No. 1016 provides that a grade one correctional facility that has a contract with the Department of Corrections and Rehabilitation to confine female inmates who have been sentenced to the custody of the department may confine the female inmate for more than one year in accordance with the terms of the contract. The bill also provides that a female inmate confined in the county jail is entitled to the same rights to sentence reduction for good and meritorious conduct and to pardon and parole as an inmate confined to a facility of the department. The Governor vetoed the bill on April 28, 2003.

House Bill No. 1271 provides that if no qualified state facility is available, the director of the Department of Corrections and Rehabilitation is required to contract with a county for the housing of female inmates in a county jail. The bill requires that the county with which the department contracts must have available and must provide the female inmates access to educational and vocational programs, chemical dependency treatment programs, mental health programs, medical services, and adequate recreational facilities.

House Bill No. 1506 provides that a grade one correctional facility that has a contract with the Department of Corrections and Rehabilitation to confine female inmates who have been sentenced to the custody of the department may confine the female inmate for more than one year in accordance with the terms of the contract. The bill also provides that a female inmate confined in the county jail is entitled to the same rights to sentence reduction for good and meritorious conduct and to pardon and parole as an inmate confined to a facility of the department.

OFFENDERS

House Bill No. 1074 repeals three sections that provide for a procedure by which inmates may request a transfer to the State Hospital or other treatment facility.

House Bill No. 1088 provides for the payment of an administration fee by inmates.

Senate Bill No. 2339 provides that a probationer who wants to transfer residence to another state must pay a \$150 application fee to the Department of Corrections and Rehabilitation. The bill also provides that in addition to the application fee paid by the probationer, the county having jurisdiction over the probationer must pay a \$150 fee to the department. The bill imposes a \$10 travel permit fee for a probationer who requests permission to travel to another state. The bill provides that the funds collected are to be deposited in the probationer violation transportation fund and are to be used for defraying the costs of returning to the state probationers who violate their conditions of supervision.

INTERSTATE COMPACTS

House Bill No. 1254 provides for an interstate compact for juveniles. The bill creates an interstate commission to oversee the administration and operations of the interstate movement of juveniles in the compacting states.

Senate Bill No. 2147 amends the Interstate Compact for the Supervision of Parolees and Probationers. The compact deals with North Dakota offenders on parole or probation who wish to live in another state while under supervision and with offenders who wish to live in North Dakota while on parole or probation from another state. Many of the changes contained in the Act were needed as a result of the 2001 passage of the Interstate Compact for Adult Offender Supervision. The bill allows the compact administrator to delegate various duties to designated staff within the Department of Corrections and Rehabilitation's Field Services Division; provides that the Governor is to appoint the compact commissioner and a deputy commissioner to the Interstate Compact Commission; grants the compact administrator the authority to issue a warrant and order a hearing; addresses extradition issues; provides for procedures for conducting a hearing; and provides for penalties for violations of the compact. The bill also repeals Chapters 12-56 and 12-56.1, which relate to the current compacts.

CRIMINAL JUSTICE AGENCIES

House Bill No. 1111 requires criminal justice agencies to include drug paraphernalia offenses in the offenses that are required to be reported to the Bureau of Criminal Investigation.

Senate Bill No. 2041 authorizes the Bureau of Criminal Investigation to require criminal justice agencies to report offense information in the manner the bureau determines to be the most efficient or accurate means of collection. The bill also increases the fee from \$20 to \$30 for conducting a criminal history record check.

Senate Bill No. 2151 repeals two sections that provide for the State Crime Laboratory. New sections regarding the State Crime Laboratory are created in Title 54.

Senate Bill No. 2223 authorizes the governing body of a city or county to require each applicant for a specified occupation with the city or county to provide two sets of fingerprints.

Senate Bill No. 2346 creates the Peace Officer Standards and Training Board. The bill authorizes the board to prescribe the criteria and curriculum for the certification of peace officer training curriculum, instructors, and schools. The bill also authorizes the board to order a temporary suspension of a peace officer's license and establishes procedures for disciplinary proceedings. The bill became effective on April 14, 2003.

TITLE 12.1

Criminal Code

Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 12.1. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

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

SEX OFFENSES AND OFFENDERS

House Bill No. 1110 removes language that may have had the effect of allowing a sex offender to avoid registration. The bill also requires an offender to inform a law enforcement agency of changes in the offender's residence address.

Senate Bill No. 2212 provides that a minor engaging in a sexual act is guilty of a Class B misdemeanor unless that sexual act was committed against the minor in violation of certain sexual offenses. The bill also provides that it is a Class A misdemeanor to masturbate in the presence of a minor or to expose one's penis, vulva, or anus to a minor in a public or private place. The bill became effective on March 26, 2003.

NEW OFFENSES OR CHANGES IN PENALTIES

House Bill No. 1215 makes it a Class B misdemeanor for a person to tamper with, disable, or falsely sound a fire alarm or tamper with or disable fire suppression equipment in a place of public abode or any other public place.

House Bill No. 1251 provides that introducing a computer contaminant into a computer is a computer crime. The bill also provides that in addition to any other remedy available, the owner of a computer, computer system, or computer network may bring a civil action for damages, restitution, and attorney's fees for damages incurred as a result of the criminal violation.

House Bill No. 1301 makes it an infraction for any person to sell the tobacco product commonly referred to as bidis or beedies.

House Bill No. 1424 makes it a Class C felony for a person to intentionally or knowingly perform or attempt to perform human cloning or to participate in performing or attempting to perform human cloning.

Senate Bill No. 2268 makes it a Class A misdemeanor for a person, with the intent to defraud a retailer, to possess, use, utter, transfer, alter, counterfeit, or reproduce a retail sales receipt or a universal product code label. The bill makes it a Class C felony for a person, with the intent to defraud a retailer, to possess 15 or more fraudulent retail sales receipts or universal product code labels or to possess a device the purpose of which is to manufacture fraudulent retail sales receipts or universal product code labels.

Senate Bill No. 2269 makes it a Class C felony for a person to knowingly manufacture, sell, offer for sale, or distribute theft detection shielding devices or deactivators. The bill makes it a Class A misdemeanor for a person to possess theft detection shielding devices or deactivators.

SENTENCING

Senate Bill No. 2044 requires the court, when ordering restitution in insufficient funds check cases, to impose as costs the greater of the sum of \$10 or 25 percent of the amount of restitution ordered, not to exceed \$1,000. The bill also provides that those costs are to be used by the state's attorney or clerk of district court to offset operating expenses.

Senate Bill No. 2211 exempts the simple possession of marijuana from the offenses for which a mandatory sentence must be imposed if the offense is committed using a dangerous weapon. The bill became effective on April 9, 2003.

Senate Bill No. 2329 provides that a sentence for an assault-related offense against a family or household member must include an order to complete a domestic violence offender treatment program unless the court makes written findings for the records explaining why such an order would be inappropriate.

TITLE 13
Debtor and Creditor Relationships
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 13. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1184 provides the term and renewal provisions relevant to a license issued under the state's Consumer Finance Act; modifies the renewal provisions relevant to a money broker license and a collection agency license; and authorizes the Department of Financial Institutions to investigate and make discovery requests relating to collection agencies and provides the parameters for these activities.

Senate Bill No. 2128 increases from \$300 to \$400 the fee for investigating an application and increases from \$200 to \$300 the annual license fee for a license for a money broker or a collection agency issued under the state's Consumer Finance Act.

Senate Bill No. 2158 addresses the licensure of consumer finance services, money broker services, and deferred presentment service providers, including clarification of the power of the Commissioner of Financial Institutions to investigate the qualifications of an applicant and of the duty of officers and employees of the applicant to respond to requests of the commissioner; authorization of the commissioner to suspend and to remove licensee officers and employees and the procedure for such suspension or removal; and an increase in the general penalty from a Class A misdemeanor to a Class C felony and inclusion of a civil penalty not exceeding \$5,000 per violation.

Senate Bill No. 2302 modifies the law relating to late payment charges on medical or hospital bills, providing that instead of prohibiting late payment charges if a payment was made within the last 90 days, late payment charges are prohibited within the initial 90 days following services.

May 2003

TITLE 14

Domestic Relations and Persons

Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 14. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

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

ADOPTION

House Bill No. 1035 relates to provisions of the Revised Uniform Adoption Act. The bill creates definitions for the terms "abandonment," "department," "genetic sibling," "identifying," "investigation," "relative," and "stepparent"; provides that a petition for adoption and a report filed by the petitioner must state that the petitioner's expenses were reasonable and must indicate the types of fees that may be reasonable; provides that the court is to make a finding as to the reasonableness of fees paid by the petitioner; clarifies the residency requirements as the requirements apply to various adoption situations; provides that certain identifying and nonidentifying information may be shared between consenting parties to the adoption; removes the search prohibition of birth parents and birth siblings in the case of involuntary adoptions; provides that an adult child of a deceased adopted individual may initiate a search for identifying and nonidentifying information; provides that if only one genetic parent consents to the disclosure, the information disclosed may only relate to the consenting parent; and removes the 10-day withdrawal period for relinquishment of a birth parent's parental rights.

House Bill No. 1036 provides that in an adoption proceeding the court is required to make a finding as to the reasonableness of expenses paid. The bill also provides for a definition of "reasonable fees" and extends the time for filing a petition for adoption from 90 days to 180 days.

DOMESTIC VIOLENCE

House Bill No. 1072 adopts the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act. The Act establishes uniform procedures to enable courts to recognize and enforce valid domestic violence protection orders issued in other jurisdictions. The bill also repeals a section of the North Dakota Century Code relating to the enforceability of foreign domestic violence protection orders.

Senate Bill No. 2329 clarifies the penalty for the first and subsequent violations of a protection order. The bill provides that the first violation of any protection order is a Class A misdemeanor and a second or subsequent violation of any protection order is a Class C felony. The bill provides that "first violation" means the first time any order is violated and a second or subsequent violation of any protection order includes two or more violations of protection orders.

DISCRIMINATION

House Bill No. 1081 provides that certain housing discrimination laws do not apply to the sale or rental of the rooms or units in a dwelling containing living quarters occupied by more than four families living independently of each other if the owner maintains and occupies one of the living quarters as the owner's residence.

House Bill No. 1083 prohibits the disclosure of certain individually identifiable health information obtained during a housing discrimination investigation except to a federal agency if necessary for the processing of a complaint under an agreement with the federal agency.

Senate Bill No. 2067 relates to human rights complaints and provides that if a complaint of a discriminatory practice is first filed with the Department of Labor, the period of limitation for bringing an action in the district court is 90 days from the date the department issues a written notice to the complainant that administrative action on the complaint has concluded.

CHILD SUPPORT

Senate Bill No. 2155 provides that the definition of a work activity for purposes of calculating child support includes postsecondary education and any other activity permitted or required to be treated by the federal government as work for purposes of calculating a work participation rate.

Senate Bill No. 2160 relates to medical support obligations of an obligor and provides for compliance with national medical support notice requirements. The bill addresses employer duties and liabilities with respect to the notice as well as to provide for a noncustodial parent contest. The bill provides that employers must comply with the provisions of the notice, including transferring the notice to the insurer within 20 business days and must promptly notify the program whenever the obligor's employment is terminated. The bill provides for the duties of the Department of Human Services when an obligor is required to provide health insurance coverage for a child. The bill corrects obsolete references to the clerk of court. The bill also addresses child support arrearage situations; changes the monthly amount that may be collected on arrears under income withholding; provides that agreements to relieve an obligor of any current or future duty of child support are void and may not be enforced; provides for agreements to waive past-due child support under certain conditions; and regulates offsets of child support.

Senate Bill No. 2246 provides that an employer, pursuant to an income withholding order, who fails or refuses to deliver income for more than 14 business days is subject to a sanction of \$500 in damages or actual damages, whichever is greater. The bill authorizes a late fee of \$25 per day per obligor or \$75 per day, whichever is greater, for each additional business day that a payment is delinquent after the seven working days the employer has to turn over the withheld money. The bill provides that for child support obligations that first became arrearages on or before July 1, 2002, the public authority may calculate judgment interest accrued only for periods on or after January 1, 2004. The bill also provides for the suspension of occupational, professional, recreational, motor vehicle operator, and vehicle licenses and registrations for the nonpayment of child support or the failure to obey a subpoena.

MARRIAGE AND DIVORCE

House Bill No. 1267 provides that a husband and wife, while living together, are jointly and severally liable for any medical care debts contracted by either.

PARENT AND CHILD

Senate Bill No. 2034 amends the Uniform Parentage Act by changing the term “natural” mother or father to “biological” mother or father.

TITLE 15

Education

Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 15. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

HIGHER EDUCATION

House Bill No. 1003 provides a general fund appropriation of \$361,541,418 and a grand total of all funds equal to \$472,088,193 for the North Dakota University System office and the institutions of higher education under the control of the State Board of Higher Education. The bill also raises the compensation for State Board of Higher Education members from \$62.50 to \$100 per day, authorizes bonding for construction projects at the various institutions, and requires the board's performance and accountability report include an executive summary and information regarding education excellence, economic development, student access, student affordability, and financial operations.

House Bill No. 1019 directs the State Board of Higher Education to establish a "centers of excellence" program to develop and engage strategies for science technology research and development, commercialization, entrepreneurship, infrastructure, growth and expansion of knowledge-based industries, and activities to develop innovative approaches that expand the gross state product.

House Bill No. 1124 authorizes an institution of higher education to charge fees for rooms and meals provided in connection with summer programs for which high school credit is awarded.

House Bill No. 1125 reduces from 3.6 to 3.5 the cumulative grade point average that a student must have to reapply for a scholarship under the state scholars program and provides that a state scholar may receive an annual stipend of not more than \$2,000, in addition to a scholarship.

House Bill No. 1127 expands the lending sources from which a student seeking assistance under the technology occupations student loan program may obtain a student loan.

House Bill No. 1378 directs the State Board of Higher Education to urge an institution of higher education to study the feasibility and desirability of generating electricity from wind energy for the purpose of producing hydrogen.

House Bill No. 1393 provides that the hockey arena at the University of North Dakota is officially named the Ralph Engelstad Arena.

Senate Bill No. 2015 provides that one of the two senators on the Medical Center Advisory Council must be from the majority party and the other must be from the minority party. It also provides that one of the two members of the House of Representatives on the Medical Center Advisory Council must be from the majority party and one must be from the minority party.

Senate Bill No. 2200 provides that for purposes relating to the student financial assistance and scholars program, students having the same composite score must be ranked by the numeric

sum of the four scale scores of the test of academic achievement administered by the American college testing program.

Senate Bill No. 2261 provides that the State Board of Higher Education shall use revenue earned from long-term lease and leaseback transactions for the repair and upkeep of campus buildings commonly referred to as deferred maintenance projects.

Senate Bill No. 2282 replaces the gubernatorial nominees to the Medical Center Advisory Council with two members of the Senate and two members of the House of Representatives appointed by the Legislative Council.

Senate Bill No. 2334 authorizes the establishment of a beef systems center of excellence in the Department of Animal and Range Science at North Dakota State University.

BOARD OF UNIVERSITY AND SCHOOL LANDS

House Bill No. 1103 authorizes trust fund payments for the expenses of managing and maintaining trust lands, including appraisal fees, survey costs, surface lease refunds, weeds and insect control, cleanup costs, capital improvement rent credits, and rural fire district reimbursements for fire protection.

Senate Bill No. 2094 authorizes the Board of University and School Lands to lend securities held by the permanent trust funds and determine the manner in which the securities must be collateralized.

MISCELLANEOUS

House Bill No. 1119 provides for the creation of an Indian cultural education trust, provides that donor agreements must designate which tribe is to receive trust income, and authorizes the Board of University and School Lands to administer the trust.

Senate Bill No. 2013 provides that nonteaching employees of the Superintendent of Public Instruction, as well as the Superintendent of Public Instruction, may elect to transfer to the Public Employees Retirement System.

Senate Bill No. 2040 provides that the Superintendent of Public Instruction, rather than the State Board of Public School Education, is responsible for determining the curriculum and services offered to students by the Division of Independent Study.

Senate Bill No. 2057 adds various bonuses to the definition of "salary" for purposes of the Teachers' Fund for Retirement, updates dual or multiple plan membership guidelines, and reenacts maximum benefit limitations specified under Section 415 of the Internal Revenue Code.

TITLE 15.1

Elementary and Secondary Education

Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 15.1. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

FINANCE

Senate Bill No. 2154 (vetoed by the Governor) would have set per student payments at \$2,509 and \$2,623, raised the current mill deduct from 32 to 34 and required an annual two-mill increase beginning in 2005, raised the weighting factors to 85 percent and then 100 percent of the five-year average, imposed a recapture provision on school districts that do not levy at least 140 mills, provided \$5 million in supplemental payments, provided for a maintenance of teacher compensation levels, provided for block grant transportation payments, and provided for contingent payments if money remains in either the state aid or teacher compensation line items.

Senate Bill No. 2013 appropriates \$599,175,006 to the Superintendent of Public Instruction, and includes therein \$489,379,990 for state school aid, \$51,854,000 for teacher compensation, \$69,495,371 for tuition apportionment, and \$49,898,695 for special education.

House Bill No. 1383 creates a weighted method by which any appropriations for English language learner programs are to be distributed.

SUPERINTENDENT OF PUBLIC INSTRUCTION

House Bill No. 1079 delineates the teacher and administrator positions for which the Superintendent of Public Instruction may issue credentials.

House Bill No. 1086 waives the open enrollment transfer dates for students who are the victims of violence within the schools they are attending, for students attending schools that are deemed unsafe by the Superintendent of Public Instruction, and for students attending schools that have been identified by the Superintendent of Public Instruction as requiring program improvement for six consecutive years.

House Bill No. 1166 requires that the school district census and various other certifications be provided directly to the Superintendent of Public Instruction, rather than through a county superintendent of schools.

Senate Bill No. 2015 requires that the Superintendent of Public Instruction forward tuition apportionment payments to the school district that a student chooses to attend at the time of a dissolution or reorganization.

Senate Bill No. 2032 appropriates \$50,000 for completion of the data envelopment analysis project.

Senate Bill No. 2065 requires that beginning with the 2005-06 school year, students in grades 3, 4, 5, 6, 7, 8, and 11 must be given state reading and mathematics tests and that

beginning with the 2007-08 school year, students in at least one grade level from 3 through 5, from 6 through 9, and in grade 11 must be given a state science test.

Senate Bill No. 2066 repeals the requirement that the Superintendent of Public Instruction maintain a revolving school district equipment and software fund for the cooperative purchase by school districts of equipment and software.

Senate Bill No. 2414 provides that whenever any bill or amendment under legislative consideration contains a provision required by the No Child Left Behind Act of 2001, the Superintendent of Public Instruction must provide legislators with the federal statutory or regulatory language and citations.

TEACHERS

Senate Bill No. 2135 appropriates \$40,000 to the Education Standards and Practices Board for the purpose of procuring federal matching grants to provide for the national board certification of teachers.

Senate Bill No. 2136 raises the per diem compensation for members of the Education Standards and Practices Board from \$25 to \$62.50.

House Bill No. 1489 authorizes the Education Standards and Practices Board to issue major equivalency endorsements and sets forth the qualifications for teachers from prekindergarten through high school.

Senate Bill No. 2404 appropriates \$66,000 from funds remaining in the grants - teacher compensation line item in 2001 House Bill No. 1013, for the purpose of increasing the base salaries of teachers employed at the Youth Correctional Center.

SCHOOL BOARDS AND DISTRICTS

House Bill No. 1033 provides that a student must complete at least 21 units of high school coursework before being issued a high school diploma.

House Bill No. 1237 clarifies suspension and expulsion proceedings with respect to students who violate school district weapons and firearms policies and provides that a student who violates a district's weapons policy may be expelled for up to 12 months.

House Bill No. 1258 provides that even though a school district reorganization does not become effective until July 1 following approval by the voters, the board of the newly reorganized district, upon the completion of negotiations and the signing of a negotiated agreement, may offer contracts of employment to individual teachers and establish a time certain by which the teachers must accept or reject the offers.

House Bill No. 1259 removes the \$1,000 annual cap on the reimbursement of school board members.

House Bill No. 1273 authorizes the board of a school district to pay signing bonuses to teachers.

House Bill No. 1295 specifies the information that must be included in school district employee compensation reports.

House Bill No. 1296 provides that a school district does not have to file with the Superintendent of Public Instruction the number of teachers who participated in professional development activities during the preceding school year and the nature and scope of the professional development activities in which the teachers participated.

House Bill No. 1331 provides that if a school board closes one of several schools in the district, the board may agree to provide transportation to those students who were placed in another school in the district as a result of the closure.

House Bill No. 1397 provides that a school board may contract to prepare and provide meals, snacks, and other food services for persons or programs not affiliated with the school district if no private entity is able and willing to enter such a contract.

Senate Bill No. 2169 provides that a school board may not charge a fee for textbooks or other items necessary for completion of a course required for grade advancement or graduation, but the school board may require a student to pay a fee for the use of a musical instrument owned or rented by the school district.

Senate Bill No. 2177 exempts from the minimum instructional time requirements schools or school districts that implement block schedules approved by the Superintendent of Public Instruction.

Senate Bill No. 2372 repeals a provision of the law that required the concurrence of a majority of school board members plus one if the board intended to hire a teacher who was related to a board member by blood or marriage because it conflicted with Section 15.1-07-17, which requires a school board member who has a conflict of interest in any contract requiring the expenditure of school funds to disclose the conflict to the board and not participate in any discussions or votes regarding the contract unless all other board members consent.

MISCELLANEOUS

House Bill No. 1068 provides that it is unlawful for a person to knowingly issue or manufacture a false academic degree and that it is unlawful for a person to knowingly use or claim to have a false academic degree.

House Bill No. 1080 includes within the definition of a student with disabilities an individual between the ages of 18 and 21 who is incarcerated in an adult correctional facility and who, in the last educational placement prior to incarceration, was identified as being a student with a disability.

House Bill No. 1183 changes the name of the State Board for Vocational and Technical Education to the State Board for Career and Technical Education.

House Bill No. 1325 provides that the motto "In God We Trust" may be displayed in a public school.

Senate Bill No. 2332 requires a law enforcement agency to file a written report with a student's principal if the agency has probable cause to believe that the student has violated a law regarding the use and possession of tobacco by a minor.

TITLE 16.1

Elections

Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 16.1. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to elections may be classified in these subject areas: election administration; campaign contributions; political parties; and vacancies.

ELECTION ADMINISTRATION

Senate Bill No. 2394 establishes within the office of the Secretary of State and offices of county auditors a centralized statewide electronic data base of voters to be known as the central voter file. The bill provides that the county auditor is chief custodian of the central voter files in each county and the Secretary of State is responsible for maintaining the central voter file. The bill requires that the creation of the central voter file and its maintenance through June 30, 2009, must be paid for with funds from the state's election fund if the election fund contains adequate funding to create and maintain the central voter file. The bill further provides that the creation of the central voter file and its maintenance through June 30, 2009, may not be paid for from funds in the Secretary of State's budget, the state's general fund, or from county funds. The bill requires the Secretary of State to pay the costs of operating and maintaining the central voter file beginning July 1, 2009, and requires the other offices required to perform the functions and duties related to the central voter file to bear the costs incurred in performing those duties. The bill provides procedures for establishing and maintaining names in the central voter file and requires the Secretary of State to adopt rules for the purpose of maintaining the central voter file. The bill provides that a voter list or a report generated from the central voter file may be made available to a candidate, political party, or a political committee for election-related purposes. The bill requires each county auditor to provide each precinct election board with an accurate precinct map or precinct finder to assist the election board member in determining whether an address is located in that precinct and for determining which precinct and polling location to which to direct an individual who may be attempting to vote incorrectly in that precinct.

Senate Bill No. 2409 authorizes the Secretary of State to adopt rules for the purpose of implementing the provisions of the Help America Vote Act of 2002 and requires the Secretary of State to establish and maintain an election fund in the state treasury for the purpose of depositing payments and grants made to the state under the Help America Vote Act of 2002 and funds appropriated by the state. The bill requires the Secretary of State to establish a uniform state-based administrative complaint procedure to remedy grievances according to the Help America Vote Act of 2002. The bill also removes various references in the election code to "voting machines." The bill provides that for electronic voting systems procured after August 1, 2003, the system must be capable of notifying a voter that the voter has overvoted, undervoted, or cross-party voted in the case of a primary election before the voter casts a ballot. The bill also requires that a direct recording electronic voting system must be capable of preventing a voter from overvoting and cross-party voting before the voter casts a ballot and a direct recording electronic voting system must be capable of producing in random order a paper copy of each ballot cast on the system. The bill authorizes the Secretary of State to adopt rules for certifying and decertifying electronic counting machines and electronic voting systems. The bill

provides that an electronic voting system and electronic counting machine, a single device of an electronic voting system and electronic counting machine, and an update and enhancement made to those devices, in use by a county before August 1, 2003, must be reviewed by the Secretary of State by April 1, 2004, and must meet the requirements of the rules adopted by the Secretary of State or must be replaced by another electronic voting system and electronic counting machine, a single device of an electronic voting system and electronic counting machine, and an update and enhancement made to those devices that meets the requirements of the rules by January 1, 2006. The bill provides that an individual who votes after the regular poll closing time in an election in which a federal office appears as a result of a federal or state court order or any other order extending the time established for closing the polls under state law in effect 10 days before the date of that election may only vote in that election by casting a provisional ballot. The bill repeals provisions relating to requirements for voting machines and the use of voting machines. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on April 16, 2003.

Senate Bill No. 2248 provides that a citizen of the United States who is 18 years of age or older and has never lived in the United States and whose parent is a qualified elector of this state may be eligible to vote absentee in this state. The bill requires that a completed application for an absent voter's ballot must be submitted to the appropriate election official in a timely manner so as to allow the applicant to receive, complete, and mail the absent voter's ballot before the day of the election. The bill provides that an application for an absent voter's ballot must be made on a form prescribed by the Secretary of State. The bill prohibits a county auditor, city auditor, or business manager of a school district from providing an absent voter's ballot to a person acting as an agent who cannot provide a signed, written authorization from an applicant. The bill allows an individual who cannot read the English language or who has a disability making the individual unable to mark the voter's ballot to receive assistance in marking the voter's ballot from any person of the voter's choice, other than the voter's employer, an officer or agent of the voter's union, a candidate running in that election, or a relative of a candidate. The bill authorizes a board of county commissioners to create a special precinct, known as an early voting precinct, to facilitate the conduct of early voting. The bill designates the Secretary of State as the official responsible for providing information regarding absentee voting by military and overseas citizens eligible to vote in the state according to the Help America Vote Act of 2002 and requires the Secretary of State to develop and provide uniform procedures for county auditors to follow when transmitting and receiving applications for absent voter's ballots to and from military and overseas voters. The bill also requires the Secretary of State to establish a uniform procedure for county auditors to follow when notifying a military or overseas voter that the voter's ballot was rejected.

CAMPAIGN CONTRIBUTIONS

Senate Bill No. 2403 provides that a campaign contribution does not include money or anything of value received for commercial transactions, including rents, advertising, or sponsorships made as a part of a fair market value bargained-for exchange, or contributions of products or services for which the actual cost or fair market value are reimbursed by a payment of money. The bill provides that a contribution statement filed by a candidate committee or a candidate who does not have a candidate committee must show the gross total of all contributions received in excess of \$200, the gross total of all contributions received of \$200 or less, and the cash on hand in the filer's account at the start and close of the reporting period. The bill provides that a candidate committee, a candidate for statewide office who does not have a candidate committee, and any candidate for legislative office shall report the occupation, employer, and principal place of business of each person, or the political committee if not already registered under state or federal law, which contributed \$5,000 or more in the aggregate

during the reporting period. The bill requires a political party to include in its campaign contribution statement the gross total of all contributions received and expenditures made in excess of \$200, the gross total of all contributions received and expenditures made of \$200 or less, and the cash on hand in the party's account at the start and close of the reporting period. The bill also requires a political party to report the occupation, employer, and principal place of business of each person, or the political committee if not already registered under state or federal law, which contributed \$5,000 or more in the aggregate during the reporting period. The bill authorizes a corporation, cooperative corporation, limited liability company, or association to make a donation of property or money to a state political party or nonprofit entity affiliated with or under the control of a state political party for deposit in a separate and segregated fund to be used exclusively by the political party or nonprofit entity for purchasing, maintaining, or renovating a building and for the purchase of fixtures for the building. The bill provides that if an audit of a campaign contribution statement reveals a violation of campaign contribution laws, the candidate, political party, or political committee filing the statement must pay a fine to the Secretary of State equal to 5 percent of the aggregate of contributions and expenditures found to be in violation or an amount sufficient to pay the cost of the audit, whichever is greater. The bill provides that if an audit of a statement arranged by the Secretary of State does not reveal a violation of campaign contribution laws, the cost of the audit must be paid for by the Secretary of State. The bill establishes campaign finance contribution statement filing requirements for candidates for judicial district office and candidates for a county or city office in cities with a resident population of 5,000 or more. The bill requires the Secretary of State to charge and collect a late fee of \$25 if a campaign contribution statement, a registration, or a report required to be filed is not filed within six days after the prescribed time, a fee of \$50 for an item not filed within 11 days after the prescribed time, and a fee of \$100 for a document not filed beyond 11 days after the prescribed time. The bill requires the Secretary of State to provide instructions and conduct training for the purpose of promoting uniform application of campaign finance and disclosure requirements and the uniform filing of statements, registration, or reports.

Senate Bill No. 2063, for the purposes of campaign contribution restrictions and requirements, provides that a candidate includes a person holding public office, a person who has publicly declared that person's candidacy for nomination for election or election to public office or has filed or accepted a nomination for public office, a person who has formed a campaign or other committee for that person's candidacy for public office, a person who has circulated a nominating petition to have that person's name placed on the ballot, and a person who has solicited or received a contribution for that person's candidacy for public office, whether before or after the election for that office. The bill provides that a contribution means a gift, transfer, conveyance, provision, receipt, subscription, loan, advance, deposit of money, or anything of value made for the purpose of influencing the nomination for election, or election, of any person to public office or aiding or opposing the circulation or passage of a statewide initiative or referendum petition or measure. The bill defines "anything of value" as any good or service of more than a trivial or token value or of no appreciable value. The bill provides that a contribution does not include money or anything of value received by a candidate in that person's personal capacity and not received for a political purpose or to influence the performance of that person's official duty.

POLITICAL PARTIES

Senate Bill No. 2288 authorizes political parties to conduct a presidential preference caucus on one day, following presidential nominating contests in the states of Iowa and New Hampshire and before the first Wednesday in March in every presidential year. The bill provides that unless specifically forbidden by national party rules, the voting delegates selected by political parties at the presidential preference caucus are bound to cast their first ballots at the political party's national convention in the same proportion as the total votes cast for all candidates for President of the United States at the political party's presidential preference caucus. The bill provides that each party entitled to a separate ballot column that chooses not to conduct a presidential preference caucus may nominate a presidential candidate and select presidential electors for inclusion on the general election ballot. The bill also repeals provisions relating to the presidential preference contest.

House Bill No. 1410 removes the requirement that the precinct caucus chairman of a political party notify the county auditor of the election of precinct committeemen and provides that within 30 days following the state political party committee's organization, the newly elected chairman must notify the Secretary of State of the names and addresses of the party's district chairman.

VACANCIES

Senate Bill No. 2405 provides that a vacancy in a nomination for a statewide office or a legislative office may not be filled by the proper state executive committee or district executive committee unless the nominated candidate dies, would be unable to serve as a result of a debilitating illness, ceases to be a resident of the state or in the case of a legislative office will not be a resident of the legislative district at the time of election, or ceases to be qualified to serve as otherwise provided by law. The bill provides that if a vacancy in the office of a member of the Legislative Assembly occurs, the qualified electors of the legislative district may request a special election to be called by the Governor to fill the vacancy by filing a petition that includes the signatures of qualified electors equal in number to 4 percent of the resident population of the legislative district. The bill provides that the petition must be submitted to the Secretary of State within 30 days following an appointment to fill the office. The bill provides that a special election may not be scheduled to occur during the time from a general election through 80 days following the adjournment of the next ensuing regular session of the Legislative Assembly. The bill also provides that the Secretary of State must be notified of an appointment to fill a legislative vacancy which is made by a district committee or the chairman of the Legislative Council.

TITLE 18
Fires
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 18. Bills primarily affecting other titles may affect this title, but those bills are not summarized in this memorandum.

Senate Bill No. 2243 requires at least one director on the board of a rural fire protection district to represent each township by having an interest in real or personal property assessed for taxation in the township.

Senate Bill No. 2266 removes the \$250 per month cap on the amount a firefighter's relief organization may pay as a service pension.

TITLE 19

Food, Drugs, Oils, and Compounds

Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 19. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1351 creates a Class C felony of exposing a child or vulnerable adult to a controlled substance, chemical substance, or drug paraphernalia. The bill increases the penalty to a Class B felony if the child or vulnerable adult suffers bodily injury and a Class A felony if the exposure results in death.

House Bill No. 1353 requires the sale of ephedrine or a pseudoephedrine to be in packages that do not include more than three grams and in blister packs not containing more than two dosage units per blister. Violation is a Class A misdemeanor. The bill prohibits more than two packages to be sold in a single over-the-counter sale and prohibits a person from selling packages to a person under 18 years of age. Violation is an infraction. The bill exempts pediatric products. The bill specifically expands the use of definitions in Chapter 19-03.1 to Chapters 19-03.2 and 19-03.4 and creates definitions for methamphetamine precursor drug, over-the-counter sale, and sale. The bill creates prima facie proof of intent to unlawfully possess drug paraphernalia and unlawfully manufacture or deliver drug paraphernalia from the possession of 24 grams of a methamphetamine precursor drug. The bill prohibits any political subdivision from enacting any ordinance relating to the sale by a retail distributor of over-the-counter products containing ephedrine, pseudoephedrine, or phenylpropanolamine.

House Bill No. 1146 includes buprenorphine in Schedule III depressants. The bill includes dichloralphenazone in Class IV depressants.

House Bill No. 1111 changes citations to the chapter on drug paraphernalia and other cross-references.

Senate Bill No. 2111 clarifies language relating to the licensing of ammonia storage facilities.

House Bill No. 1352 requires the Insurance Commissioner to create a critical methamphetamine use zone pilot project and to create rules relating to appropriate security measures to be implemented by the owners and users of anhydrous ammonia tanks in the zone. The bill provides immunity from civil liability for the owner of anhydrous ammonia for theft by another from an anhydrous ammonia tank.

Senate Bill No. 2151 changes references from the Forensic Sciences Division of the State Department of Health to the State Crime Laboratory.

Senate Bill No. 2081 allows the Agriculture Commissioner to issue an experimental use permit to register a pesticide use if authorized by the Environmental Protection Agency.

Senate Bill No. 2110 changes the registration and licensure relating to fertilizer from every year to every even-numbered year. The bill creates a minimum threshold of \$10 for fees paid to the Agriculture Commissioner for the inspection of all fertilizers, soil amendments, or plant amendments.

Senate Bill No. 2319 extends the effective date for laws relating to the registration of pesticides to June 30, 2005.

House Bill No. 1128 creates a definition of Type A medicated article to include a product with standardized potency containing one or more new animal drugs intended for use in the manufacture of another medicated article or medicated feed. The bill includes Type A medicated article within the definition of livestock medicine. The bill changes the two-year registration for livestock medicine to even-numbered years ending June 30 and creates a late registration fee of \$10. The bill provides for civil enforcement by the Agriculture Commissioner of the livestock medicine chapter and subjects a violator to a civil penalty not to exceed \$500 per violation.

House Bill No. 1158 includes the president of the North Dakota Grain Growers Association and an individual who is a resident of this state and a member of the United States Durum Growers Association in the nominating committee for the member from the state at large on the Wheat Commission. The bill clarifies that nonmisleading references made to current official publications of state or federal entities are not included within the definition of labeling. The bill applies the term misbranded to a pesticide if the product is a restricted use pesticide and the label does not contain a statement of the use classification under which the product is registered. The bill removes the potential requirements of displaying the registration number assigned to the pesticide and the use classification on the label for the pesticide to be misbranded. The bill redefines restricted use pesticide to mean any pesticide formulation that is classified for restricted use by the United States Environmental Protection Agency and includes the same classified by the Agriculture Commissioner. The bill clarifies that the registration of pesticide is for a two-year period beginning on January 1 of each even-numbered year. The bill requires a registrant to report on the amount and type of each registered pesticide sold within 30 days after receiving the commissioner request, instead as previously required by March 1. The bill exempts from penalty provisions a person using, distributing, selling, or offering for sale an unregistered pesticide for which the United States Environmental Protection Agency has granted an emergency exemption for at least one use in North Dakota. The bill repeals a six-member advisory board regarding the testing and analyzing of North Dakota food and agricultural products for pesticide residue.

Senate Bill No. 2009 increases the registration fee for livestock medicine from \$20 to \$40 for each livestock medicine that is registered.

TITLE 20.1

Game, Fish, Predators, and Boating

Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 20.1. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

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

LICENSES AND PERMITS

House Bill No. 1358 provides that nonresident small game hunting licenses entitle nonresidents to hunt small game for any period of 10 consecutive days or any two periods of five consecutive days each but is not required to hunt waterfowl. The bill increases the nonresident small game hunting license fee from \$75 to \$85, increases the nonresident waterfowl hunting license fee from \$10 to \$85, increases the nonresident fishing license fee from \$25 to \$35, increases the nonresident short-term seven-day fishing license fee from \$15 to \$20, increases the nonresident husband and wife fishing license fee from \$35 to \$45, increases the nonresident short-term three-day fishing license fee from \$10 to \$15, increases the combination license fee from \$27 to \$35, and allocates \$5 of the habitat restoration stamp fee to the private land open to sportsmen program. The bill appropriates \$3.3 million from the game and fish fund to the Game and Fish Department for the purpose of increasing funding for the private land open to sportsmen program and authorizes the department an additional five full-time equivalent employees to carry out the private land open to sportsmen program. The bill provides that it is the intent of the 58th Legislative Assembly that the \$3.3 million appropriated for the private land open to sportsmen program be used to create a new short-term lease program that targets the best access areas and portions of the state that are most impacted with hunting access problems within the private land open to sportsmen program. The fishing license and combination license fee increases become effective April 1, 2004.

House Bill No. 1391 increases the nonresident big game hunting license fee from \$155 to \$200 and the fee for a nonresident bow hunting license from \$155 to \$200. The bill provides that \$45 of each nonresident big game hunting license fee must be used for the private land initiative. The bill became effective April 21, 2003.

House Bill No. 1050 provides for the licensing of guides and outfitters. The bill establishes a resident hunting guide license for a fee of \$100, a nonresident hunting guide license for a fee of \$400, a resident fishing outfitter license for a fee of \$100, a nonresident fishing outfitter license for a fee of \$400, a resident fishing outfitter license for a fee of \$50 for residents who have paid for a hunting guide or outfitter license for the same year, a nonresident fishing outfitter license for a fee of \$200 for nonresidents who have paid for a hunting guide or outfitter license for the same year, a resident hunting outfitter license for a fee of \$250 for providing services on land comprising an area under 10,000 acres and \$500 for providing services on land comprising an area of 10,000 acres or more, a nonresident hunting outfitter license for a fee of \$2,000, and a day-leasing permit for a fee of \$200. The bill provides that an individual providing guide or outfitter services without a license is guilty of a Class B misdemeanor and that the director of the Game and Fish Department may initiate a civil action to enforce the provisions of law

relating to guides and outfitters or rules adopted by the department. The bill also deletes the statewide seven-day nonresident waterfowl hunting license.

House Bill No. 1380 provides that gratis and preferential landowner deer hunting licenses are valid for the deer bow, deer gun, and muzzleloader seasons until filled.

Senate Bill No. 2363 provides that nonresidents may participate on the same basis as residents in a lottery for deer licenses remaining after the second lottery for residents for a fee of \$50.

Senate Bill No. 2242 provides that the 14-day, seven-day, and two 7-day hunting period restrictions for nonresident waterfowl hunters do not apply to nonresidents hunting in Richland and Sargent Counties during the early September Canada goose season. The bill is effective through December 31, 2007.

House Bill No. 1092 provides that Social Security numbers obtained by the Game and Fish Department are confidential.

GUBERNATORIAL PROCLAMATIONS

House Bill No. 1122 establishes a mule deer license raffle and auction to be operated by the Mule Deer Foundation.

Senate Bill No. 2215 provides that the moose license made available for a moose raffle must be made available to the North American Wildlife Enforcement Memorial Museum and Educational Center and the Rocky Mountain Elk Foundation rather than the North Dakota Game Warden Association. The bill provides that the raffle is to be conducted by the North American Wildlife Enforcement Memorial Museum and Educational Center and the Rocky Mountain Elk Foundation with 50 percent of the net proceeds used for elk management or other wildlife and for conservation-related projects rather than 15 percent used for moose management purposes with the remaining net proceeds used for construction and maintenance of the North American Wildlife Enforcement Memorial Museum and Educational Center located at the International Peace Garden. The bill also provides that the elk license made available for an elk raffle must be made available to the Rocky Mountain Elk Foundation and the North American Wildlife Enforcement Memorial Museum and Educational Center with 50 percent, less a maximum of 10 percent that may be used to promote the raffle, required to be used for elk management or other wildlife and conservation-related projects in North Dakota with the remaining net proceeds to be used for construction and maintenance of the North American Wildlife Enforcement Memorial Museum and Educational Center rather than 90 percent used for elk management purposes. The bill also removes the restriction that an individual is only eligible to receive one license to hunt moose through the moose raffle and one license to hunt elk through the elk raffle in a lifetime.

Senate Bill No. 2323 provides that the Governor may restrict the importation and disposition of the carcass or carcass parts of any animal in the family cervidae taken from any areas within states or provinces that have documented cases of chronic wasting disease in wild populations or taken from captive hunt or farm facilities by proclamation. The bill also provides that the Governor may declare an animal health emergency upon determining that wildlife are at risk from diseases imported by foreign animals, a foreign animal disease, bioterrorism event, or an emerging animal disease by executive order or proclamation. The bill became effective April 14, 2003.

GAME AND FISH DEPARTMENT

House Bill No. 1224 provides that the Game and Fish director may carry out a program that targets waterfowl resting areas within the private lands initiative program which includes payments to private landowners for lease of waterfowl resting areas on private lands that during the term of the lease provides limited public access for the hunting of waterfowl.

Senate Bill No. 2322 provides that the Game and Fish director may issue any resident hunting or fishing license to a nonresident full-time student living in this state who is a resident of a state that is a member of the Midwest Student Exchange Program or the Western Undergraduate Exchange Program attending an institution under the jurisdiction of the State Board of Higher Education or a tribal college.

Senate Bill No. 2237 provides that the Game and Fish director may issue to an individual who is blind a special permit to hunt game with a crossbow if that individual otherwise complies with and qualifies under the licensing and other provisions of the state's game and fish laws.

MISCELLANEOUS

House Bill No. 1343 provides that notwithstanding the Game and Fish director's schedule of monetary values, an individual who unlawfully takes a bighorn sheep, elk, or moose is subject to a civil penalty for the replacement value of the animal of \$5,000 for a bighorn sheep, \$3,000 for an elk, and \$2,000 for a moose. The penalty for a male bighorn sheep, elk, or moose over two and one-half years of age is an additional 50 percent of the penalty.

House Bill No. 1223 provides that the open or lawful season on pheasant and the open or lawful season on duck may not commence on the same weekend, and the open or lawful season on pheasant may not open earlier than one-half hour before sunrise, and the season may not commence earlier than the first Saturday of October of any given year. The bill also requires the Governor to prohibit nonresidents from hunting for the first seven days of the pheasant season on land owned or private land enrolled by the Game and Fish Department for the purposes of hunting or on land for which the department pays in lieu of tax payments by proclamation.

Senate Bill No. 2401 increases the power source of an artificial light that may be used to take raccoons from an artificial light or flashlight with a power source of not over two cells in the aggregate of four volts to an artificial light or flashlight with a power source of not over six volts.

May 2003

TITLE 21
Governmental Finance
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 21. Bills primarily affecting other titles may affect this title, but those bills are not summarized in this memorandum.

House Bill No. 1374 provides that a depository financial institution is not required to provide a pledge of security or bond for deposited funds that are insured by an insurance company qualified to offer excess deposit insurance which has a rating of A- or better by A. M. Best Company, Inc., or an equivalent rating by another recognized rating organization. The option for insurance by an insurance company is an alternative to existing exemptions for deposits insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

May 2003

TITLE 22
Guaranty, Indemnity, and Suretyship
Summary of Bills Enacted by 2003 Legislative Assembly

There was no legislation enacted which primarily affected North Dakota Century Code Title 22. Bills primarily affecting other titles may affect this title, but those bills are not summarized in this memorandum.

TITLE 23

Health and Safety

Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 23. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to health and safety may be classified in the following subject areas: medical records; contagious diseases; emergency medical services; nursing homes and related health care facilities; food and lodging establishments; State Health Officer and State Department of Health; and medical service providers.

MEDICAL RECORDS

House Bill No. 1092 provides that except for a vital record or certified copy of a vital record provided to the individual, to the individual's guardian or agent, or by court order, an individual's Social Security number contained in a vital record or certified copy of a vital record may not be disclosed.

House Bill No. 1438, as part of the bill addressing state compliance with the privacy provisions of the federal Health Insurance Portability and Accountability Act, updates the language regarding to whom and under what circumstances a public health authority may disclose protected health information; clarifies that a health care provider may report patient information to the Department of Transportation under limited circumstance if the report is necessary to prevent or lessen a serious and imminent threat to the health or safety of the patient or the public; updates the law relating to physician-reporting of infection of, disclosure of patient information relating to, and exposure to human immunodeficiency virus; and removes the state law provisions relating to costs allowed for providing copies of health care records.

CONTAGIOUS DISEASES

House Bill No. 1221 makes several modifications to the law relating to significant exposure to contagious diseases and to the human immunodeficiency virus. The bill expands the class of emergency service providers who are covered under the contagious diseases and human immunodeficiency virus testing laws to include peace officers, correctional officers, court officers, emergency medical technicians, and good Samaritans, and the bill modifies and updates the testing procedures under these laws.

House Bill No. 1414 updates the laws relating to reportable diseases and relating to communicable diseases isolation and quarantine. The bill updates who is required to report reportable diseases; authorizes the State Health Officer to issue temporary orders for emergency reporting of diseases; updates the definitions relating to isolation and quarantine; authorizes the local health officer instead of the local board of health to issue written directives ordering isolation or quarantine; provides a framework and specific procedures for isolation or quarantine ordered by the State Health Officer or a local health officer, including a criminal penalty for failing to obey such a written directive; and modifies the hearing procedures relating to petitions relating to written directives ordering isolation or quarantine, including extending from three days to five days the time in which a hearing must be held, lowering the burden of proof of infection from clear and convincing evidence to a preponderance of the evidence,

clarifying who has access to records in order to prepare for the hearing, and providing what information must be included in a hearing notice.

Senate Bill No. 2289 adds the varicella (chickenpox) immunization to the list of immunizations required before a child may be admitted to a school, day care center, child care facility, Head Start program, or nursery school or be supervised through home-based instruction.

EMERGENCY MEDICAL SERVICES

House Bill No. 1306 provides that it is a Class B misdemeanor for an individual to willfully misrepresent that individual's certification or licensure status as an emergency medical services personnel.

House Bill No. 1480 provides that a quick-response unit has discretion in whether to be licensed by the State Department of Health.

NURSING HOMES AND RELATED HEALTH CARE FACILITIES

House Bill No. 1004 is the appropriation for the State Department of Health. The bill authorizes the department to make combined or joint purchases with or on behalf of local public health units for items or services and provides for a \$10 per bed licensure fee for basic care facilities not owned by the state or a political subdivision.

House Bill No. 1164 corrects a cross-reference to a law relating to assisted living facilities.

House Bill No. 1400 extends from July 31, 2003, to July 31, 2007, the moratorium on expansion of basic and long-term care bed capacity; allows long-term care facilities and basic care facilities to bank beds up to 48 months from the date of transfer; provides that for each bed transferred between municipalities or from a municipality to a tribal reservation, one bed must be reduced; and removes the requirement that beds converted by a nursing facility must be located in the same block of rooms within the facility.

House Bill No. 1165 repeals the current addiction hospital licensure law and replaces it with a new law under Title 50.

FOOD AND LODGING ESTABLISHMENTS

House Bill No. 1121 provides that although the State Department of Health is charged with enforcement of laws relating to hotels, lodginghouses, restaurants, and boardinghouses, other state agencies may coordinate with the State Department of Health for purposes of monitoring these laws.

House Bill No. 1160 includes assisted living facilities to the establishments regulated with food establishments and lodging establishments, including the requirement to report reportable diseases, to meet specific physical requirements relating to health and safety, and to be licensed by the State Department of Health.

STATE HEALTH OFFICER AND STATE DEPARTMENT OF HEALTH

House Bill No. 1123 authorizes the State Health Officer to appoint a deputy state health officer and provides the authority of that deputy based upon the education of that deputy.

Senate Bill No. 2297 provides that not later than September 30, 2004, the State Health Officer shall provide a report to the Legislative Council regarding the implementation of the community health grant program.

Senate Bill No. 2151, as part of the bill that creates a State Crime Laboratory Division of the Attorney General's office, repeals the law that required the State Department of Health to maintain a State Toxicologist.

MEDICAL SERVICE PROVIDERS

Senate Bill No. 2272 provides that the State Health Council shall adopt rules to become effective August 1, 2006, which would require that x-ray operators obtain continuing education and which would establish minimum standards for x-ray operation provision of limited pediatric examinations.

House Bill No. 1481 authorizes nurse practitioners to complete and sign death registration medical certifications.

TITLE 24
Highways, Bridges, and Ferries
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 24. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1031 authorizes the director of the Department of Transportation to enter agreements with counties or cities for the cooperative or joint administration of an activity that will enhance the efficiency and effectiveness of the state highway system.

House Bill No. 1113 allows the Department of Transportation to accept bids and bid bonds that are submitted by electronic media, including the Internet.

House Bill No. 1278 requires the board of county commissioners or board of township supervisors to determine that a public road is a sufficient benefit to the county or township as a whole before creating a public road to a landlocked tract.

House Bill No. 1309 changes citations to the definition of "destination state" to comply with other changes in the bill.

House Bill No. 1012 removes the specific reference to the Transportation Equity Act for the 21st century, thereby allowing the Department of Transportation to borrow moneys from the Bank of North Dakota to match any federal emergency relief funds.

May 2003

TITLE 25

Mentally Ill and Retarded, Tubercular, Blind, and Deaf

Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 25. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

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

STATE INSTITUTIONS AND TREATMENT FACILITIES

House Bill No. 1163 authorizes a treating facility or mental health professional to disclose individually identifiable health information to a court, regional human service center, state's attorney, retained counsel, or other mental health professional. The bill also provides that upon proof of representation, the legal counsel in a mental illness commitment proceeding may have access to a respondent's medical records. The bill provides that all information and records obtained in the course of an investigation, evaluation, examination, or treatment under the state's mental illness commitment process are confidential and only may be disclosed to a court for the purposes of the commitment process. The bill became effective on April 14, 2003.

House Bill No. 1165 amends the definition of a "private treatment facility" to include a facility licensed under Chapter 50-31.

House Bill No. 1228 extends the moratorium on the expansion of residential treatment center for children bed capacity from June 30, 2003, to June 30, 2005. The bill became effective on March 7, 2003.

Senate Bill No. 2086 establishes a procedure for the implementation of a fee-for-service ratesetting system for payments to treatment or care centers for individuals with developmental disabilities. The bill also repeals sections of the North Dakota Century Code relating to the purchase of services provided to individuals with developmental disabilities and allowing providers of services to transfer funds between budget categories and line items.

CIVIL COMMITMENT PROCEDURES

Senate Bill No. 2045 changes from seven to four the number of days within which a mental health commitment preliminary hearing or a treatment hearing is to be held. The bill provides that the four-day period is exclusive of weekends and holidays.

Senate Bill No. 2070 authorizes the Department of Human Services to enter an agreement with a bordering state to allow for the placement in North Dakota of individuals who are on emergency holds or who have been involuntarily committed as mentally ill or chemically dependent in a bordering state. The bill also enables the temporary placement in a bordering state of patients who are on emergency holds in North Dakota under the state's mental illness commitment laws.

Senate Bill No. 2296 provides that an "alternative treatment order" is an involuntary outpatient order for a treatment program, other than hospitalization, which includes treatment with a

prescribed medication. The bill also provides that the definition of a “serious risk of harm” includes a substantial deterioration in mental health which would predictably result in dangerousness to that person, others, or property, based upon facts to establish the loss of cognitive or volitional control over the person’s thoughts or actions or based upon acts in the person’s treatment history, including the effect of the person’s mental condition on the person’s ability to consent.

HEALTH INFORMATION

House Bill No. 1425 authorizes the release of the individual records of a treatment or care center for individuals with developmental disabilities to a physician in the treatment of an individual who is within the fourth degree of consanguinity of a deceased resident if the disclosure is limited to genetic health information that has a direct bearing on the health of the relative, the relative’s child, or the relative’s decision to have a child. The bill also allows the release of information to an individual who is within the fourth degree of consanguinity of a deceased resident if the disclosure is limited to information about a resident needed to establish a family’s genealogy.

House Bill No. 1438 provides that, subject to exceptions for certain judicial and law enforcement purposes, all information relating to an individual with a disability, including individually identifiable health information, which is in the possession of the Protection and Advocacy Committee, Protection and Advocacy Project, or any advocate is confidential. The bill also provides that, subject to exceptions for certain judicial and law enforcement purposes, the Department of Human Services and the Developmental Center at Westwood Park, Grafton may not disclose the contents of the individual records of a treatment or care center for developmentally disabled persons.

Senate Bill No. 2345 relates to the screening and admission of an individual to a public treatment facility for the diagnosis and treatment of mental illness. The bill provides that if a request for screening is made by a qualified mental health professional and the individual who is the subject of the screening does not authorize the disclosure of the protected health information, a mental health professional who has treated the individual within the previous six months is required to disclose to the regional human service center any relevant protected health information regarding that treatment.

TITLE 26.1

Insurance

Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 26.1. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

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

INSURANCE COMMISSIONER

House Bill No. 1231 creates a fraud unit within the Insurance Department and establishes the powers and duties of this unit; updates definitions relating to insurance fraud, including creation of the definition of "fraudulent insurance act"; clarifies that fraudulent insurance acts are prohibited and limits who may participate in the business of insurance based on prior criminal acts; provides for mandatory reporting of fraudulent insurance acts; and provides confidentiality protection to certain information provided to the fraud unit.

Senate Bill No. 2251 provides that the Insurance Commissioner may implement a property insurance placement facility for residents who are unable to obtain necessary property insurance through the standard insurance market. The bill provides that the commissioner shall determine whether there is a lack of availability of property insurance in the market, and if there is such a lack, shall implement the program as provided under the bill.

House Bill No. 1167 updates the Insurance Commissioner's biennial reporting requirements to the Governor and the Secretary of State.

Senate Bill No. 2121 provides that the Insurance Commissioner may designate the National Association of Insurance Commissioners as the repository for the filing of insurer's annual statements.

INSURANCE COMPANIES

House Bill No. 1142 provides that an insurer shall provide the Insurance Commissioner written notice of the insurer's intent to cease writing and renewing a property and casualty insurance product; repeals the law requiring insurers of attorneys to report to the Insurance Commissioner data regarding all claims and judgments against the attorneys; and repeals the law requiring insurance companies that provide product liability insurance or excess insurance above self-insurance to a manufacturer, seller, or distributor to provide annual reports to the Insurance Commissioner.

House Bill No. 1179 authorizes the Insurance Commissioner to adopt rules that would require an insurance company to have a customer's consent before disclosing to a nonaffiliated third party that customer's nonpublic personal health and financial information.

House Bill No. 1260 regulates the use of credit information in personal insurance, including prohibiting consideration of certain information that is part of a credit score; prohibiting denial, cancellation, or nonrenewal based solely on credit information; prohibiting adverse action based solely on a consumer not having a credit card; restricting consideration of absence of credit

information; and designating the frequency with which credit information on which insurance is based must be rechecked. The bill provides requirements and procedures under which to resolve disputes and correct errors; notify a consumer of consideration of credit information; notify a consumer of adverse action based on credit information; and notify the Insurance Commissioner of the consideration of credit information. The bill prohibits a consumer reporting agency from providing consumer credit information that includes information submitted in conjunction with an insurance inquiry regarding a consumer's credit information.

House Bill No. 1137 clarifies the duty of an insurance company to reply to inquiries made by the Insurance Commissioner and the penalty for not complying to such inquiries or knowingly providing the commissioner with false, misleading, or incomplete information.

House Bill No. 1140 allows the Insurance Commissioner to accept an insurance company examination performed by examiners from a state that is not accredited by the National Association of Insurance Commissioners; changes the allowed term of existence of a mutual insurance company from 30 years to perpetual; removes the requirement that the Attorney General review and approve articles of incorporation of a mutual insurance company; and allows a foreign health maintenance organization to coordinate the time of filing of its annual report based upon the annual filing schedule of its domestic state.

House Bill No. 1233 provides that a nonprofit mutual insurance company may form a wholly owned company for the purpose of administering Medicare claims and other business activities that do not accept insurance risk, and that such a wholly owned company may form a joint venture or subsidiary to conduct functions that the nonprofit mutual insurance company could conduct directly; however, an officer, director, or management employee of the nonprofit mutual insurance company may not directly or indirectly own an interest in a subsidiary.

House Bill No. 1264 provides the Insurance Commissioner may not grant, renew, continue, or permit to continue any license if the commissioner determines that the license is being or will be used by the applicant or licensee for the purpose of writing controlled business; provides the term "controlled business" does not include crop insurance business sold by a business entity licensed as an insurance producer for crop insurance between August 1, 2001, and December 31, 2002; and provides these controlled business limitations do not apply to insurance written in connection with credit transactions.

Senate Bill No. 2205 clarifies that upon a showing of good cause by an insurance company, the Insurance Commissioner has discretion in providing time extensions and in waiving or reducing any penalty relating to an insurance company's failure to timely make and file any required statements under the law regulating insurance.

Senate Bill No. 2123 extends from 15 to 60 days the time within which a surplus lines insurance producer must file with the Insurance Commissioner the required affidavit and provides that the Insurance Commissioner has discretion in whether to waive any portion of a fine for failure of a surplus lines insurance producer to file required annual reports and pay associated taxes.

House Bill No. 1141 extends the application of the law relating to insurer asset and agreement reports to include revisions of ceded reinsurance agreements or material new ceded reinsurance agreements.

HEALTH

House Bill No. 1399 provides the Insurance Commissioner shall create and implement a program to assist individuals of low income to gain access to prescription medications through prescription drug assistance programs offered by pharmaceutical manufacturers.

House Bill No. 1438, as part of the bill addressing state compliance with the federal Health Insurance Portability and Accountability Act, provides it is not a prohibited practice for a health insurance company with participating provider agreements to require that a subscriber or member using a nonparticipating provider be responsible for providing the insurer a copy of medical records used for claims processing.

House Bill No. 1061 addresses the long-term care insurance law. The bill clarifies that the term “long-term care insurance” includes group and individual annuities and life insurance policies or riders; qualified long-term care insurance contracts; and long-term care insurance products issued by insurers, fraternal benefit societies, nonprofit health, hospital and medical corporations, prepaid health plans, and health maintenance organizations. The bill provides a definition for the term “qualified long-term care insurance contract” or “federally tax-qualified long-term care insurance contract.” The bill modifies the law relating to rescission of long-term care insurance policies, based in part upon the length of time a policy has been in force; modifies the information that must be provided by insurers to long-term care insurance policyholders; broadens the Insurance Commissioner’s rulemaking authority relating to long-term care insurance; and provides that long-term care insurance policies must include a nonforfeiture benefit.

Senate Bill No. 2160 provides that in the case of an insurer of an adult who is required under a court or administrative order to provide health coverage for a child, the insurer shall comply with any national medical support notice issued to the insurer.

Senate Bill No. 2184 modifies the state law regarding fully insured utilization review of health care services to be consistent with the federal rules applicable to self-insured plans which were adopted by the Department of Labor.

Senate Bill No. 2195 updates the law relating to the Comprehensive Health Association of North Dakota. The bill was based on the National Association of Insurance Commissioners’ Model Health Plan for Uninsurable Individuals Act. The bill updates definitions; updates the powers and duties of the Insurance Commissioner and the association board of directors; redefines the benefits the policy must provide; limits lifetime policy benefits to \$1 million; and provides a medical assistance recipient is not eligible for the association policy.

Senate Bill No. 2029 adds the Trade Adjustment Assistance Reform Act of 2002 applicant to the classes of applicants eligible for coverage under the Comprehensive Health Association of North Dakota.

Senate Bill No. 2210 updates the current group health service contract substance abuse coverage mandate and provides for an alternative mandate. The existing mandate provides for coverage of inpatient treatment, treatment by partial hospitalization, and outpatient treatment. The alternative mandate provides for coverage of inpatient treatment, treatment by partial hospitalization, outpatient treatment, and residential treatment.

House Bill No. 1165 corrects a cross-reference relating to the repeal and replacement of the current addiction hospital licensure law.

Senate Bill No. 2281 revises the minimum participation requirements for small employer-employee health insurance, providing that an individual health benefit plan is not considered to be qualified existing coverage for purposes of determining the percentage of participation.

Senate Bill No. 2120 repeals the law that created the North Dakota small employer health reinsurance program and repeals the law that required the Health Benefit Plan Committee to study and make reports on the effectiveness of the law relating to small employer-employee health insurance and the effectiveness of the accident and health insurance loss ratio requirements.

AUTO

House Bill No. 1190 provides that in any claim for uninsured or underinsured motorist benefits, the insured and the insurer each bear responsibility for one's own attorney's fees incurred unless the insurance contract specifically provides otherwise or unless the insurance company is found to have acted in bad faith; removes the August 1, 2003, sunset provision from the law relating to a secured person's noneconomic loss liability exemption against certain uninsured motorists; and modifies that liability exemption by decreasing the application to uninsured motorists from two to one the number of uninsured motorist convictions.

Senate Bill No. 2238 provides that an insurer is required to provide an insured with specific consumer protection information if that insurer determines an automobile with physical damage coverage has incurred a total loss or constructive total loss and that insurer continues to write comprehensive or collision coverage on that automobile.

Senate Bill No. 2275 increases from the first \$5,000 to the first \$10,000 of basic no-fault benefits the amount of benefits a health insurer may coordinate and increases from \$5,000 to \$10,000 the amount after which a basic no-fault insurer may coordinate the amount of benefits that insurer is obligated to pay for medical expenses.

LIFE

House Bill No. 1139 provides the terms regarding time limitations and interest payments required under group life insurance settlement of a death claim; provides a corporation or the trustee of a trust that acquires an interest in life insurance of an employee must have the employee's written consent; clarifies that consumer credit insurance on motor vehicles or mobile homes is subject to private passenger motor vehicle insurance or mobile homeowner's insurance law; and corrects an improperly placed information disclosure requirement for individual accident and health policies.

Senate Bill No. 2122 changes the term of a viatical settlement provider or viatical settlement broker license from one year from the date of issue to May 1 through April 30.

BONDS AND BONDING

House Bill No. 1216 modifies the bond requirement for agents distributing hunting and fishing licenses or stamps, providing the premium is \$10 for each \$5,000 of coverage and the county auditor determines whether to limit coverage to \$5,000, \$10,000, or \$15,000.

House Bill No. 1371 increases from \$50 to \$75 the amount used in formulating the maximum amount a professional bondsman may charge for a bond, such that the maximum amount of the fee for a bond is the greater of 10 percent of the amount of bail or \$75.

House Bill No. 1415 provides that if a bondsman returns a defendant to the jurisdiction of the court within six months of receiving notice of the failure to appear, the court shall return the forfeiture upon petition by the bondsman, minus 5 percent for court costs, and if a bondsman returns a defendant to the jurisdiction of the court after more than six months from the receipt of notice of failure to appear, the court has discretion in whether to return the forfeiture.

Senate Bill No. 2015 decreases from \$2.5 million to \$2 million the trigger amount of the balance of the state bonding fund at which balance premiums are waived and collected. The portions of this bill vetoed by the Governor are not directly related to Title 26.1.

MISCELLANEOUS

House Bill No. 1138 allows the Mill and Elevator Association to choose not to be covered under the state fire and tornado fund if certain conditions are met; removes the statutory minimum requirements for excess loss reinsurance for the fund and instead provides the Insurance Commissioner discretion in determining the terms of the reinsurance; provides the cost of the excess loss reinsurance must be assessed against the policyholders that benefit from the reinsurance; and provides the terms under which the fund may contract for insurance broker of record services to assist in procuring excess loss reinsurance.

Senate Bill No. 2224 provides that the doctrine of efficient proximate cause applies only if separate, distinct, and totally unrelated causes contribute to the loss and provides that an insurer may contract out of the efficient proximate cause doctrine.

Senate Bill No. 2235 provides a new statutory formula for determining the minimum nonforfeiture amount for annuity contracts. The bill provides that for annuity contracts issued after July 31, 2003, and before August 1, 2005, on a contract form by contract form basis, a company may elect to apply the existing formula or the new formula, and that for annuity contracts issued after July 31, 2005, the new formula applies.

TITLE 27
Judicial Branch of Government
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 27. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

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

STATE COURTS

House Bill No. 1088 creates the court facilities improvement and maintenance fund. The bill also creates the Court Facilities Improvement Advisory Committee. The bill provides that the money in the court facilities improvement and maintenance fund may be used by the Court Facilities Improvement Advisory Committee to make grants to counties to provide funds for court facilities improvement and maintenance projects.

House Bill No. 1246 authorizes the district courts to hear and determine all actions and proceedings arising from the enforcement of county home rule charter ordinances.

House Bill No. 1390 requires the clerk of the Supreme Court to charge and collect any electronic filing processing fee established by court rule for any matter filed in an electronic format. The fees collected are to be deposited in the electronic filing administration fund and the money in the fund is to be appropriated on a continuing basis to the judicial branch to cover the actual costs of maintaining an electronic filing system.

House Bill No. 1419 relates to the temporary court of appeals and extends the expiration date of the temporary court of appeals from January 1, 2004, to January 1, 2008.

JUVENILES

House Bill No. 1090 provides juvenile court files and records are open to inspection by a criminal justice agency if the juvenile is required to register as a sex offender under Section 12.1-32-15. The bill also provides that the correctional facility records and files of a child alleged or found to be delinquent, unruly, or deprived must be kept separate from the records and files of arrests of adults.

Senate Bill No. 2212 expands the definition of a deprived child to include a child who was subject to prenatal exposure to chronic and severe use of alcohol or any controlled substance or a child who is present in an environment that subjects the child to exposure to a controlled substance, chemical substance, or drug paraphernalia. The bill became effective on March 26, 2003.

TITLE 28
Judicial Procedure, Civil
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 28. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

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

ADMINISTRATIVE PROCEDURE

House Bill No. 1178 provides that the notice of administrative rulemaking must include the deadline for the submission of written comments.

House Bill No. 1212 provides that before the adoption of any proposed administrative rule, the adopting agency must prepare a regulatory analysis in which the agency considers the methods necessary to accomplish the objectives of the statutes while minimizing adverse impact on small entities. The bill provides that "small entity" includes a small business, small organization, and small political subdivision. The bill exempts those agencies that are occupational or professional licensing authorities from the regulatory analysis requirement.

Senate Bill No. 2092 relates to changing the name of the Central Personnel Division to North Dakota Human Resource Management Services and revising references to the central personnel system. The portion of the bill affecting Title 28 deals with the Office of Management and Budget and the office's exemption from the definition of administrative agency regarding the office's rules relating to the classified service.

Senate Bill No. 2151 relates to the agencies that are exempt from the administrative rulemaking process of Chapter 28-32. With respect to the State Toxicologist, the bill changes the agency reference from the State Department of Health to the Attorney General.

Senate Bill No. 2204 extends the number of days within which a garnishment execution must be made from 270 days to 360 days after service of the garnishment summons.

Senate Bill No. 2288 removes a reference to the Secretary of State and the rules adopted for the presidential preference contest under Section 16.1-11-02.3. The bill repeals the section of law that relates to the presidential preference contest.

JUDGMENTS

House Bill No. 1071 adopts the Uniform Foreign Money-Judgments Recognition Act. The Act provides a procedure for the recognition of money judgments obtained in other countries.

House Bill No. 1214 provides that the exemptions from all attachment or process include a motor vehicle exemption not to exceed \$32,000 for a motor vehicle that has been modified at a cost of not less than \$1,500 to accommodate an individual with a permanent physical disability who is the owner of that motor vehicle.

MISCELLANEOUS

House Bill No. 1330 repeals NDCC Sections 28-29-04, 28-29-05, and 28-29-06, which relate to the power of courts when the price of farm products produced in the state are confiscatory and to the authority of the court to delay orders in property foreclosures.

House Bill No. 1438 relates to medical malpractice actions and the access to information in the plaintiff's medical records. The bill provides that appropriate authorizations permitting access to the written medical record and other information must be provided by the party commencing the action at the time the action is commenced. The bill provides that if the party commencing the action fails to provide the authorization at the time the action is commenced, the health care provider or facility may use other means to obtain the records, such as by subpoena or court order. The bill further provides that if alternative means are used to obtain the records, the court shall award reasonable costs and attorney's fees to the health care provider or facility.

TITLE 29
Judicial Procedure, Criminal
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 29. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1088 provides that in all criminal cases, except infractions, upon a plea or finding of guilt, the court is required to impose a court administration fee in lieu of the assessment of court costs. The bill provides that the fee is \$125 for a Class B misdemeanor; \$200 for a Class A misdemeanor; \$400 for a Class C felony; \$650 for a Class B felony; and \$900 for a Class A or AA felony. The bill also provides for an additional \$100 court administration fee for all criminal cases except infractions; that the court may waive the administration fee upon a showing of indigence; and that a portion of the court administration fee is to be deposited in the indigent defense administration fund and the court facilities and improvement fund.

Senate Bill No. 2328 provides that if an offense involves a crime of domestic violence, the corruption or solicitation of a minor, a sexual assault, indecent exposure, or surreptitious intrusion, the offense may not be compromised as provided in Section 29-01-17.

May 2003

TITLE 30
Judicial Procedure, Probate
Summary of Bills Enacted by 2003 Legislative Assembly

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

May 2003

TITLE 30.1
Uniform Probate Code
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 30.1. Bills primarily affecting other titles may affect this title, but those bills are not summarized in this memorandum.

Senate Bill No. 2062 makes technical corrections with respect to electronic signatures under the Uniform Disclaimer of Property Interests Act.

Senate Bill No. 2093 requires the personal representative to distribute unclaimed assets to the unclaimed property administrator instead of the State Treasurer.

TITLE 31
Judicial Proof
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 31. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1235 provides that the centralized DNA data base is to be used for the identification or prosecution of all criminal offenses. The bill also provides that the detention, arrest, or conviction of an individual based upon data base information is not invalidated if it is later determined that the specimens or samples were obtained or placed in the data base by mistake.

Senate Bill No. 2151 changes the agency responsible for the centralized data base of DNA identification from the Forensic Science Division of the State Department of Health to the State Crime Laboratory. The bill also makes the Attorney General responsible for adopting the rules necessary to carry out the provisions of the DNA data base identification system.

TITLE 32
Judicial Remedies
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 32. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1263 relates to the diminishment of damages in proportion to the amount of contributing fault attributable to the person recovering. The bill provides that regardless of whether the person seeking direct and indirect damages for injury to property also seeks damages for personal injury, damages for personal injury are not available under this section of law.

House Bill No. 1352 provides immunity for the owner of anhydrous ammonia from civil liability or any loss, damage, or injury from the theft of anhydrous ammonia from the tank, equipment, or storage facility in which it is contained.

House Bill No. 1461 authorizes the court to waive the publication requirement of a change of name upon satisfactory evidence that the petitioner has been the victim of domestic violence as defined by state law.

Senate Bill No. 2061 adopts the Uniform Arbitration Act. The Uniform Arbitration Act advances arbitration as an alternative to litigation. The bill repeals the version of the Uniform Arbitration Act adopted by North Dakota in 1987.

Senate Bill No. 2204 changes from 270 to 360 the number of days a garnishment summons may remain in effect. The bill also changes from 180 to 270 the number of days a continuing lien on wages by garnishment may be in effect.

May 2003

TITLE 33
County Justice Court
Summary of Bills Enacted by 2003 Legislative Assembly

There was no legislation enacted that primarily affected North Dakota Century Code Title 33. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

TITLE 34
Labor and Employment
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 34. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1082 changes the process by which the Labor Commissioner amends the North Dakota Wage and Working Conditions Order, providing for adoption of rules under the Administrative Agencies Practice Act and abolishing the use of conferences for investigations and other activities.

House Bill No. 1382 removes the prohibition against employers requiring an employee to directly deposit the employee's wages into a financial institution.

Senate Bill No. 2015 provides that the state or a political subdivision may provide for a work period for compensatory time and overtime calculation for its employees if the policy complies with the federal Fair Labor Standards Act.

Senate Bill No. 2079, as used in the law relating to licensure of employment agencies, limits the term employment agency by excluding a person that charges a service fee or any other charges exclusively to employers.

May 2003

TITLE 35
Liens
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 35. Bills primarily affecting other titles may affect this title, but those bills are not summarized in this memorandum.

House Bill No. 1195 narrows the scope of an attorney's lien by removing the ability of an attorney to claim a lien on papers in the attorney's possession which belong to a client.

Senate Bill No. 2292 broadens the scope of a landlord's mobile home lien by allowing a landlord to claim a lien for accrued rents.

TITLE 36
Livestock
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 36. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

House Bill No. 1130 provides that statutory provisions relating to the inspection of slaughter animals and the preparation of carcasses do not apply to the custom processing of animals delivered by the owner and intended for the exclusive use of the owner, the owner's household, nonpaying guests, and employees.

House Bill No. 1192 provides that if a person wins a live animal in a raffle and desires a cash prize instead of the animal, the cash prize must equal the lesser of the animal's market value or the maximum single cash prize allowable under Section 53-06.1-10.1.

House Bill No. 1503 provides that statutes governing livestock running at large are applicable to bison, cattle, goats, horses, mules, sheep, and swine.

Senate Bill No. 2196 adds to the State Board of Animal Health one individual who is actively engaged and financially interested in the nontraditional livestock industry.

Senate Bill No. 2198 provides an administrative hearing for an individual who brings elk into this state in violation of the law if the State Board of Animal Health orders the elk returned to their state of origin or slaughtered.

Senate Bill No. 2201 clarifies the requirements for calfhood vaccination against brucellosis and sets forth the conditions under which the State Board of Animal Health may waive the vaccination requirements.

Senate Bill No. 2209 clarifies the requirements regarding brand inspections and the claiming of estrays and provides that an out-of-state livestock facility may request brand inspection services from the North Dakota Stockmen's Association, which must in turn petition the State Board of Animal Health for permission to provide the services.

Senate Bill No. 2220 allows for the inspection of poultry under the state meat inspection program.

TITLE 37

Military

Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 37. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

Senate Bill No. 2420 clarifies the definitions of active militia and militia and provides definitions for state active duty and state defense forces. The bill clarifies the membership in the National Guard and the National Guard Reserve.

Senate Bill No. 2134 requires the Adjutant General to hold a rank consistent with that individual's length of service and federal laws, but not to exceed the rank of lieutenant general, but of lieutenant colonel or higher.

Senate Bill No. 2132 repeals a section of law that required the Adjutant General and political subdivisions to form an armory maintenance and repair board to determine the priority of maintenance for repairs for each National Guard armory and required the National Guard to contribute up to 50 percent of the maintenance and repair costs as funds became available.

House Bill No. 1151 provides that an individual called or ordered to active service for 30 consecutive days or longer has all the protections afforded to an individual in the military service of the United States under the Soldiers and Sailors Civil Relief Act of 1940.

Senate Bill No. 2299 creates a governing board to administer the Veterans Home through an administrator. The bill provides for rulemaking authority to determine priorities for admission into the home. The bill requires the board governing the Veterans Home and the subcommittee governing the Department of Veterans Affairs to conduct an annual performance evaluation of the administrator and the commissioner and to create and implement a strategic plan, respectively. The bill requires the board and subcommittee to report annually on the evaluation and plan to the Administrative Committee on Veterans Affairs and requires the committee to report to the Governor.

House Bill No. 1095 requires that general fund appropriations to the Veterans Home may be expended only when federal or other funds are not available.

House Bill No. 1029 excludes money received as service-connected compensation from adjusted income that may be considered in determining a membership contribution by a member of the Veterans Home.

House Bill No. 1117 allows money in the veterans' aid fund be used for paying administrative expenses relating to the making and collecting of loans made from the fund.

Senate Bill No. 2344 provides a definition of veteran for the purposes of making loans or providing aid to veterans.

House Bill No. 1227 allows a veteran of the Korean Conflict or the Vietnam Conflict to receive an honorary high school diploma.

House Bill No. 1438 conforms privacy rules relating to medical information transferred to the Department of Veterans Affairs from the United States government to the federal Health Insurance Portability and Accountability Act.

TITLE 38
Mining and Gas and Oil Production
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 38. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

House Bill No. 1218 increases the risk penalty for nonparticipating owners in a spacing unit or unitized unit whose interest in the spacing unit is derived from a lease or other contract for development from 100 percent of the nonparticipating owner's share of the reasonable actual costs of drilling and completing the well to 200 percent of the nonparticipating owner's share of the reasonable actual costs of drilling and completing the well. The bill also provides that if the nonparticipating owner's interest in the spacing unit or unitized unit is not subject to a lease or other contract for development, the risk penalty is 50 percent of the nonparticipating owner's share of the reasonable actual costs of drilling and completing the well. The bill provides that the owner paying for the nonparticipating owner's share of the drilling and operation of a well may recover the risk penalty only if the paying owner has made an unsuccessful, good-faith attempt to have the unleased participating owner execute a lease or to have the leased nonparticipating owner join in and participate in the risk and cost of drilling the well. The bill also removes the provision that a risk penalty may not be assessed against an unleased mineral interest.

Senate Bill No. 2125 provides that moneys in the abandoned oil and gas well plugging and site reclamation fund may be used to pay mineral owners their royalty share in confiscated oil and provides that the Industrial Commission may confiscate salable oil to compensate it for plugging a well or reclaiming a well site.

House Bill No. 1102 provides that the Industrial Commission may require a collateral bond, self-bond, cash, or any alternative form of security approved by the commission, or combination thereof, as surety for compliance with oil and gas exploration and development, subsurface mineral exploration and development, coal exploration, and geothermal production rules and orders of the Industrial Commission.

May 2003

TITLE 39

Motor Vehicles

Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 39. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

Legislation relating to motor vehicles may be classified in these subject areas: registration; operator's license; commercial vehicles and drivers; rules of the road; equipment; snowmobiles; and miscellaneous.

REGISTRATION

House Bill No. 1190 excludes glass and hail damage from whether a vehicle has been damaged so as to require a salvage certificate.

House Bill No. 1299 requires the director to design a decorative decal that contains the insignia of the North Dakota FFA Foundation to be placed on license plates upon the additional payment of a \$10 fee.

Senate Bill No. 2105 requires the department to suspend or revoke a certificate of title if a person has acquired a vehicle but has failed to transfer the ownership as required by law.

House Bill No. 1012 increases the registration fee for motor vehicles by \$3 and requires \$3 from each registration fee to be deposited in the state highway fund. Upon filing with the Secretary of State, the bill provides for a 55 mile per hour speed limit on paved two-lane county and township highways if there is no speed limit posted and 65 miles per hour if posted for that speed.

OPERATOR'S LICENSE

Senate Bill No. 2149 allows the director to waive the written portion of the driving examination for the applicant who has successfully passed a written examination in another state and has a valid license. The bill allows the waiver of knowledge and skills tests for a restricted commercial driver's license issued to employees of agrichemical businesses, custom harvesters, farm retail outlets and suppliers, and livestock feeders. The bill allows records from other states for commercial driver's licenses that are not certified copies to be considered sufficient evidence. The bill allows originals, photostatic copies, or electronic transmissions of records of Indian reservation or other state licensing authorities as sufficient evidence whether or not the originals, photostatic copies, or electronic transmissions are certified copies. The bill increases the fee from \$2 to \$3 for the furnishing of a certified copy of a driving record to an appellate court. The bill removes registered gross weight from the definition of gross vehicle weight rating and includes actual weight of the towed units or unit within the definition of gross vehicle weight rating of a combination vehicle. The bill allows a nonresident owner of a motor vehicle not registered in this state to provide proof of future financial responsibility of an insurance company or other state-authorized entity providing insurance and authorized to do business in the nonresident's state of residence so long as the proof is in the amounts required by this state.

House Bill No. 1443 prohibits the director from issuing an operator's license number that is the applicant's Social Security number.

Senate Bill No. 2207 allows the director to waive the skilled portion of a motorcycle license or permit test if the applicant has successfully completed a motorcycle safety course approved by the director.

House Bill No. 1277 requires an operator to physically surrender the operator's license or permit upon the demand of any court or law enforcement officer.

COMMERCIAL VEHICLES AND DRIVERS

Senate Bill No. 2150 provides definitions for imminent hazard and noncommercial motor vehicle. The bill requires the director to furnish full information regarding the commercial driving record of a person to an employer or prospective employer. The bill makes part of the driver's record a disqualification from driving a commercial motor vehicle under 49 CFR part 383.52 with a determination that the driver constitutes an imminent hazard. The bill defines schoolbus as a commercial motor vehicle. The bill includes driving a commercial motor vehicle without a commercial driver's license and driving a commercial motor vehicle without the proper class of commercial driver's license or endorsement within the definition of serious traffic violation. The bill requires disqualification for one year if while operating a noncommercial motor vehicle a person is convicted of driving while under the influence, of leaving the scene of an accident, or using a vehicle to commit a felony. The bill requires a commercial driver's licenseholder to be disqualified for life if while driving a noncommercial motor vehicle the holder is convicted for a second time of driving while under the influence, for leaving the scene of an accident, or for using a vehicle to commit a felony. For operating any vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance, the bill requires a commercial driver's licenseholder to be disqualified for life. For conviction of any combination of two serious traffic violations within a three-year period while operating a noncommercial motor vehicle and if either conviction results in the revocation, cancellation, or suspension of an operator's license, the bill requires the commercial driver's licenseholder to be disqualified for a period not less than 60 days. For a conviction of any combination of three or more serious traffic violations within a three-year period while operating a noncommercial motor vehicle, the bill requires a commercial driver's licenseholder to be disqualified for a period of not less than 120 days.

Senate Bill No. 2407 changes the gross weight limitations on self-propelled fertilizer spreaders and self-propelled agricultural chemical applicators on highways other than in the interstate system to exclude spreaders and applicators from weight limitations if the weight of a single axle does not exceed 22,000 pounds and does not exceed 550 pounds for each inch of tire width.

House Bill No. 1062 excludes governmental entities from width limitations if operating implements of husbandry.

House Bill No. 1261 allows nonresident motor vehicles engaged in the harvest of agricultural products from June 1 through December 31 of any one year to be exempt from registration fees other than the payment of a \$50 fee. The bill exempts commercial movement of forage harvesters from width limitations after obtaining a seasonal permit issued by the Highway Patrol.

House Bill No. 1112 provides that moving a vehicle, mobile home, or modular unit of excessive size or weight without a special permit is a moving violation with a fee of \$100. The bill exempts publicly owned vehicles that provide services beyond the agency's jurisdiction and emergency vehicles from charges for special permits. The bill allows the fees for a 10 percent weight exemption for harvest and wintertime to be paid on a monthly and yearly basis and the unused fees paid on a monthly basis are refundable. The bill changes from 17,000 to 19,000 pounds

the axle load that may not be exceeded for axles spaced over 40 inches and under 18 feet apart, and creates a maximum of 34,000 pounds gross weight on a tandem axle. The bill changes the charges for the extraordinary use of highways in violation of weight limitations to a scale based upon weight in thousand-pound increments ranging from 1 to 30,000 pounds and \$20 to \$6,000 with an additional charge of \$200 for every 1,000 pounds over 30,000 pounds.

RULES OF THE ROAD

House Bill No. 1394 creates an infraction for causing an accident with an authorized emergency vehicle while displaying a flashing light and creates two points for the infraction.

House Bill No. 1193 prohibits not wearing a safety belt as evidence of negligence.

House Bill No. 1220 creates a Class C felony for fleeing a law enforcement officer in a vehicle after or in the commission of a felony.

Senate Bill No. 2301 allows vehicles otherwise required to stop at railroad crossings to not stop if the crossing is marked "Exempt" on both sides of the crossing.

House Bill No. 1319 expands the prohibition on following a fire apparatus to all emergency vehicles that are displaying the appropriate light and expands the prohibition on stopping within 200 feet of a fire apparatus stopped in answer to an emergency to all emergency vehicles.

House Bill No. 1046 provides for a 65 mile per hour speed limit on paved two-lane highways at all times; however, the bill was amended by House Bill No. 1012. The bill is an emergency measure.

House Bill No. 1322 increases the base fee for speeding in an active construction zone from \$40 to \$80.

Senate Bill No. 2342 allows a person to place portable battery-powered warning devices emitting a flashing red light on a highway to alert oncoming traffic to a disabled or stopped motor vehicle.

House Bill No. 1047 creates a fee of \$2 for each mile per hour over the limit for the first 10 miles per hour and \$5 for each additional mile per hour over the limit for a zone in which the limit is higher than 55 miles per hour except if posted in excess of 65 miles per hour. The bill creates a fee of \$5 for each mile per hour over the limit for a speed zone that is posted in excess of 65 miles per hour. The bill increases the demerit points for driving in excess of the speed limit on a highway that is posted in excess of 65 miles per hour from two to three points for driving in excess of 11 to 15 miles per hour over the limit. On August 1, 2003, the bill creates a 55 mile per hour speed limit for paved two-lane county and township highways if no speed limit is posted and 65 miles per hour if posted for that speed. The bill creates a 70 mile per hour speed limit on paved and divided multilane highways. The bill creates a 75 mile per hour speed limit on access-controlled, paved and divided, multilane interstate highways.

EQUIPMENT

House Bill No. 1255 removes the medical exception for window tinting on front side windows and allows front side windows to be tinted to a light transmittance of at least 50 percent, instead as previously allowed at 70 percent.

House Bill No. 1161 changes the level of the per se violation of driving under the influence from .10 of 1 percent by weight to .08 of 1 percent by weight.

House Bill No. 1439 provides for an increased suspension for driving while under the influence in excess of .18 of 1 percent by weight from 91 to 180 days for a first violation, from one year to two years if the person has at least once driven under the influence within the last five years, and from two to three years if the person has at least driven twice while under the influence in the last five years. The bill increases the period of revocation for failure to submit to testing from two to three years if the person has driven under the influence once in the past five years, and from three to four years if the person has driven under the influence twice within the last five years. The bill allows a person to remedy a failure to refuse to submit to testing and be subject to the suspension if that person would not have refused only if the person has never been convicted of driving while under the influence.

House Bill No. 1191 retains the drug court program for certain persons convicted of driving while under the influence.

SNOWMOBILES

House Bill No. 1292 requires snowmobiles from another state or country to pay a trail access fee of \$15 per year and to display a decal on the snowmobile. The bill requires the fees to be deposited in the state snowmobile fund. The bill creates a fee of \$50 for failure to display the decal.

Senate Bill No. 2162 increases the registration fee for a snowmobile from \$3 to \$5 and the snowmobile trail tax for registered snowmobiles from \$17 to \$35.

Senate Bill No. 2080 prohibits a snowmobile from operating in the right of way of an interstate highway unless for emergency purposes or on an overpass or underpass if the snowmobile crosses on the extreme right side. The bill creates a fee of \$100 for a violation of these rules.

MISCELLANEOUS

House Bill No. 1088 changes references to court costs to administration fee.

Senate Bill No. 2151 changes the references to the Forensic Sciences Division of the State Department of Health to State Crime Laboratory.

House Bill No. 1316 requires a Class A authorized emergency vehicle when responding to an emergency to provide adequate warning by flashing lights and, if appropriate, an audible signal.

Senate Bill No. 2222 requires the State Treasurer to transfer annually from the highway tax distribution fund to the ethanol production incentive fund an amount equal to 40 percent of all sums collected for the registration of farm vehicles with a cap of \$5 million.

House Bill No. 1359 allows for the auction of collector motor vehicles without a motor vehicle dealer's license in limited circumstances. The bill allows a motor vehicle dealer to sell a collector motor vehicle consigned to the dealer by another licensed motor vehicle dealer.

Senate Bill No. 2213 provides definitions for camping trailer, fifth-wheel travel trailer, and truck camper; redefines travel trailer; and defines house car and motorhome the same. The bill allows all these types of vehicles to exceed the width limitation by six inches if attributable to an appurtenance, including a shade awning and support hardware.

House Bill No. 1238 provides that the time of the acquisition of satisfactory evidence of a valid policy of liability insurance in effect at the time of an alleged violation for driving without liability insurance is the burden of the owner.

Senate Bill No. 2059 allows certain changes in the Highway Patrolmen's retirement system, including allowing the Public Employees Retirement System to accept rollovers from 403(b) and 457 plans, allowing the plan to accept transfers from a 403(b) plan or a 457 plan by an active employee to purchase service credit, allowing members to purchase up to five years of time, allowing the employer to purchase service credit for its employees and establishes conditions under which an employer can purchase service, allowing for equitable transfer from one type of public employment to another, providing the same confidentiality provisions as are presently allowed for the Public Employees Retirement System plan, and complying with the federal Health Insurance Portability and Accountability Act.

TITLE 40

Municipal Government

Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 40. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to municipal government may be classified in these subject areas: city financial matters, city powers, and city officers.

CITY FINANCIAL MATTERS

Senate Bill No. 2261 authorizes a city to lease, for a term not to exceed 99 years, the plant or equipment of any waterworks, mains, or water distribution system and any property related thereto or lease, for a term not to exceed 99 years, any sewage system and all related property for the collection, treatment, purification, and disposal in a sanitary manner of sewage. The bill authorizes any municipality, individually or jointly, to enter agreements to lease to the state or to any person the municipality's sewage system and all related real and personal property for the collection, treatment, purification, and disposal of sewage. The bill provides that a city may pay the cost of leasing a water or sewage system solely from the revenues derived from the ownership, sale, lease, disposition, and operation of the water or sewage system. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on April 15, 2003.

Senate Bill No. 2259 authorizes a renaissance fund organization to provide financing to businesses outside a renaissance zone. The bill increases to \$2.5 million the amount of tax credits available for investments in renaissance fund organizations and provides that a renaissance fund organization that has received investments that qualify for the additional credits may not use more than 50 percent for organization investments outside a renaissance zone. The bill provides that the annual audit of a renaissance fund organization must include the use of investments, distinguishing between organization investments made in renaissance zones and outside renaissance zones. The bill repeals the provision that provides that if an annual audit report of a renaissance fund organization shows that less than 50 percent of the net investments have been invested as authorized by law during the previous four years and the organization has been incorporated for four years or more, that organization may not accept any new investments until the governing body of the city determines that good cause exists for the failure to reach that level of investment or until a subsequent audit report shows that 50 percent or more of the net investments have been invested as authorized.

House Bill No. 1457 authorizes a city of over 5,000 population to expand a renaissance zone beyond the 20 square block maximum at the rate of one additional block for each additional 5,000 population to a maximum size of 35 blocks.

Senate Bill No. 2388 defines "revenue agreement" for the purposes of municipal industrial development bonds as "a written agreement between a municipality and a contracting party with respect to a project, whereby the contracting party agrees to pay to the municipality or its order amounts sufficient at all times to pay when due the principal of, premium, if any, and interest on all bonds issued by the municipality with respect to that project." The bill provides that a revenue agreement may be in the form of a lease, mortgage, direct or installment sale contract,

loan agreement, take-or-pay or similar agreement, and be secured in a manner the parties agree to or be unsecured. The bill further provides that a public hearing is not required before the issuance of refunding bonds.

Senate Bill No. 2052 provides that the special assessment property tax exemption for state-owned property within a city that has received state financial assistance for flood control does not apply to a privately owned structure, fixture, or improvement located on state-owned land if the structure, fixture, or improvement is used for commercial purposes unless the structure, fixture, or improvement is primarily used for athletic or educational purposes at a state institution of higher education. The bill provides that a special assessment allowed on property of the state must be based on the square footage or front footage of the land occupied by the structure, fixture, or improvement and made against the structure, fixture, or improvement and not against the land on which it is located. The bill is effective for special assessment installments confirmed after July 31, 2003.

Senate Bill No. 2368 provides that if the costs of a special assessment improvement exceed the cost of the work as contained in the engineer's estimate by 70 percent or more, the governing body of the city shall secure an audit of all costs included in the assessment for the project, prepared in accordance with generally accepted auditing standards. The bill provides that the audit report is not required if the costs of an improvement exceed the costs of the work as contained in the engineer's estimate by 70 percent or more because of a petition to enlarge the district or a request for additional work within the district by the owners of a majority of the area of the property in the district. The bill also requires the special assessment commission to prepare and file with the city auditor a list of estimated future assessments on property located outside the corporate limits of the city at the time of contracting for an improvement but which the special assessment commission determines is potentially benefited by the improvement and likely to be annexed by the city. The bill is effective for special assessment improvement projects for which a resolution of necessity is adopted after July 31, 2003.

Senate Bill No. 2096 provides that sales and use taxes levied by a home rule city after December 31, 2005, must conform with provisions of the streamlined sales and use tax agreement.

CITY POWERS

Senate Bill No. 2320 authorizes the governing body of a city to appropriate and disburse city money for the establishment, maintenance, or encouragement of arts within the city.

House Bill No. 1056 authorizes a city to acquire and hold property located outside the state.

House Bill No. 1414 revises a reference in the powers of a city with respect to quarantine ordinances to provide that the governing body of a city may enforce health ordinances.

Senate Bill No. 2409 replaces references to "voting machines" with "electronic voting systems" for purposes of authorizing the use of such systems in elections in cities. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on April 16, 2003.

CITY OFFICERS

Senate Bill No. 2175 removes the prohibition on changing the compensation of the mayor of a city during a mayor's term of office.

Senate Bill No. 2208 removes the requirement that a meeting of a city council be held on or before the 15th day of each month. The bill also removes the requirement that a board of city commissioners meet once every two weeks and provides that the board of city commissioners must meet at least once a month.

Senate Bill No. 2270 changes from February 1 to March 1 the date that a city auditor must submit to the city governing body the annual financial statement of the city. The bill also requires that the city financial statement be published within 60 days after the close of each fiscal year, rather than 30 days after the close of the fiscal year.

Senate Bill No. 2053 requires that the engineer's report regarding the cost estimate for a special improvement project include a separate statement of the estimated cost of the work for which proposals must be advertised and a separate statement of all other items of estimated cost which are anticipated to be included in the cost of the improvement. The bill provides that before adopting or rejecting a bid for a special assessment improvement project, the governing body shall require the engineer to make a detailed statement of the estimated cost of work for which proposals were advertised and provides that the governing body may not award the contract to a bidder if the engineer's estimate prepared at that time exceeds the engineer's estimate of the cost of work prepared after the special improvement district was created by 40 percent or more. The bill is effective for improvement districts for which a resolution or ordinance creating the district is adopted after July 31, 2003.

House Bill No. 1288 removes the requirement that the governing body of a city establish the compensation for members of a board of park commissioners and provides that a board of park commissioners may set the board's compensation in the park district annual budget.

TITLE 41
Uniform Commercial Code
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 41. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1070 provides for revisions to the secured transaction article of the Uniform Commercial Code, relating to the definition of “agricultural lien” and “health care insurance receivable” and to perfection of a security interest in a sale of an account that is a right to payment of winnings in a game of chance.

House Bill No. 1185 protects the privacy of a Social Security number or federal tax identification number submitted in a financing statement filed with the central indexing system after January 1, 2002, and addresses conflicts in the law regarding termination statements for financing statements.

House Bill No. 1092 provides a debtor’s Social Security number or federal tax identification number included on a financing statement may be filed only in the filing office with the central indexing system and may not be recorded in the real property records.

House Bill No. 1360 provides a financing statement recorded as a fixture filing against real property is effective for a period of five years after the date of filing.

House Bill No. 1379 provides the real estate priority provisions of this state have priority over related provisions of the secured transaction article of the Uniform Commercial Code.

TITLE 42
Nuisances
Summary of Bills Enacted by 2003 Legislative Assembly

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

TITLE 43

Occupations and Professions

Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 43. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

ADDICTION COUNSELORS

Senate Bill No. 2143 clarifies that the licensure examination may be oral, written, or both and expands unprofessional conduct to include criminal offenses the board determines have a direct bearing on the individual's ability to serve the public as an addiction counselor and to include criminal offenses for which there has been insufficient rehabilitation.

ARCHITECTS AND LANDSCAPE ARCHITECTS

House Bill No. 1204 provides that the Board of Architecture shall license landscape architects. The bill provides, effective January 1, 2005, landscape architects must be licensed; exclusions to the licensure requirements; assessment of a special fee if the expenses related to regulation of the respected profession exceed the income generated through fees for that profession; and for creation of an architect advisory committee and a landscape architect advisory committee to assist in implementation and coordination of the regulation of landscape architects.

CONTRACTORS

Senate Bill No. 2252 provides that a contractor may not be less than 18 years old; clarifies the basis for which a complaint may be filed against a contractor; clarifies the procedure by which the Secretary of State may review and make a determination upon a complaint for improper acts of a contractor; and provides a civil penalty for improper acts of a contractor.

COSMETOLOGISTS

House Bill No. 1101 clarifies that the terms "cosmetology" and "skin care" include the act of waxing to remove hair and applies to all parts of the body; increases from \$50 per day to \$100 per day the compensation of members of the Board of Cosmetology; modifies the minimum requirements of student-to-instructor ratios for schools of cosmetology; and provides for an across-the-board \$5 increase of fees.

DENTISTS AND DENTAL HYGIENISTS

Senate Bill No. 2217 provides that a dentist may delegate to a dental hygienist the administration of block and infiltration anesthesia to adult patients and provides that the Board of Dental Examiners shall adopt rules to implement this law.

Senate Bill No. 2378 modifies the selection criteria and eligibility for loan repayment for dentists, redefining the selection criteria for selecting communities with a defined need for the services of a dentist.

PROFESSIONAL ENGINEERS AND LAND SURVEYORS

House Bill No. 1236 increases from \$50 to \$100 the maximum annual registration fee for professional engineers, engineers-in-training, land surveyors, and land surveyors-in-training; provides that the Board of Registration for Professional Engineers and Land Surveyors may recover from a registrant the reasonable and actual costs incurred by the board in pursuing a

disciplinary action in which action was imposed against a registrant; and provides that if a registrant is the prevailing party in an administrative appeal of a disciplinary action taken by the board, the board shall pay the registrant's reasonable and actual costs.

House Bill No. 1256 provides that the Board of Registration for Professional Engineers and Land Surveyors shall adopt rules to establish continuing education requirements for professional engineers and land surveyors, with exceptions for retired registrants and certain voluntarily registered registrants; provides for a "retired" status for registrants; changes the requirements for who is eligible for registration with examination, distinguishing between individuals with engineering degrees and engineering-related degrees and requiring an individual to hold a valid engineer-in-training certificate; and modifies the engineers-in-training requirements, allowing certification of an individual with an engineering-related degree.

ENVIRONMENTAL HEALTH PRACTITIONERS

Senate Bill No. 2218 requires the State Health Officer to adopt rules concerning the qualifications and requirements for specialty licenses or credentials within the scope of practice of an environmental health practitioner, including specialty licenses or credentials for limited practice areas.

HEARING AID SPECIALISTS

House Bill No. 1279 changes the name of the Board of Hearing Instrument Dispensers to the Board of Hearing Aid Specialists; changes the title of a hearing instrument dispenser to a hearing aid specialist; and authorizes the board to provide funds to assist in providing continuing education for licensees.

INTERPRETERS

House Bill No. 1336 expands the interpreter regulation exceptions to certain individuals who work in elementary or secondary school settings if those individuals meet specific education and assessment requirements and to certain individuals who have completed an accredited interpreter training program if those individuals meet specific mentoring requirements.

MASSAGE THERAPISTS

Senate Bill No. 2365 provides that the Board of Massage may accept continuing education attained by remote means if the education does not exceed six units of the licensee's annual continuing education, is sponsored by a nationally recognized provider, and is approved by the board.

NURSES

House Bill No. 1245 makes several changes to the law regulating nursing. The bill provides that a majority of the members of the Board of Nursing who represent nurses must be actively engaged in practice in a nurse-patient setting; abolishes the transitional license and provides that before October 1, 2003, all holders of transitional licenses must be issued regular licenses; provides a framework for in-state nursing education program requirements, including the requirements that a licensed practical nurse program may not allow for less than one academic year and must allow for a program that offers less than two academic years, and that a registered nurse program may not allow for less than two academic years and must allow for a program that offers less than four academic years; provides that the board may not require a statement of intent as part of the in-state nursing education program approval process; provides a framework for licensure by examination, including that an applicant educated out of state may sit for a North Dakota examination if the education program is approved by the board, and that

an applicant may qualify for licensure by endorsement if the applicant has completed a nursing education program preparing for the level of licensure sought; provides for continuing education requirements for nurses; and provides an exemption from the regulation of nurses for student nurses of board-approved out-of-state nursing programs.

House Bill No. 1201 provides that an individual performing non-hands-on tasks while employed in a Medicare-funded organization is exempt from the nursing regulations.

OCCUPATIONAL THERAPISTS

Senate Bill No. 2142 changes from annual licensure to biennial licensure and repeals the law that provides that an “occupational therapist may enter a case for the purposes of providing consultation and indirect services and evaluating an individual for the need of services. Implementation of direct occupational therapy to individuals for specific medical conditions, in an acute care hospital, skilled care facility, or rehabilitation facility, must be based on an order from a licensed physician.”

PHYSICIANS

House Bill No. 1163 as part of a bill that addresses mental health services and addiction services, the bill updates the language relating to a physician’s duty to transfer medical records to other physicians or as otherwise requested by a patient.

House Bill No. 1436 modifies the special license provisions for physicians who are graduates of medical schools that are not located in the United States or Canada and who do not meet the postgraduate training requirements of this state, including clarification that a special license is temporary; increases the United States or Canada postgraduate training requirement for special licensees from one year to two years; and clarifies that the special license only applies to the practice of medicine while the licensee is enrolled in an approved postgraduate training program in this state.

Senate Bill No. 2253 provides that the Board of Medical Examiners may require an applicant for licensure or a licensee who is the subject of a disciplinary investigation to file a set of fingerprints and all other information required to complete a criminal history check. The bill provides that the costs associated with obtaining and processing the fingerprints are the responsibility of the licensee or applicant.

REAL ESTATE SALESPERSONS, BROKERS, AND APPRAISERS

Senate Bill No. 2145 expands the disciplinary authority of the Real Estate Commission. The bill authorizes the commission to impose actual costs incurred by the commission in the investigation and prosecution of a complaint; to require a licensee to attend applicable courses; and to impose a fine not to exceed \$2,500.

Senate Bill No. 2146 updates the fee structure for real estate brokers and real estate salespersons. The bill increases to a maximum of \$200 the annual license renewal fee for real estate brokers and real estate salespersons and replaces specific fees related to additional offices, changes in office locations, transfers of licenses, duplicate licenses, examinations, changes of name, and late fees with a general grant of authority to the board to set and collect reasonable fees to help offset the cost of operating the commission.

House Bill No. 1136 reiterates that rules of the Real Estate Appraiser Qualifications and Ethics Board must be adopted pursuant to the Administrative Agencies Practice Act; replaces the

15-classroom-hour permit requirement for apprentice appraisers with a general authority of the board to establish education requirements; changes the term of permits from one year from the date of issue to a calendar year; clarifies that a permitholder may be granted an inactive status; and clarifies that the board may deny or refuse to renew a permit.

SOCIAL WORKERS

Senate Bill No. 2156 makes several changes to the law regulating social workers. Substantive provisions of the bill include modification of the law relating to educational requirements for social workers, providing the Board of Social Work Examiners and not the Council on Social Work Education is authorized to determine appropriate educational standards; clarification of the educational requirements for licensed independent clinical social workers, replacement of one of the two board members who is a licensed certified social worker with a licensed independent clinical social worker, and updating references to licensed independent clinical social workers; and removal of the statutory limitations on the amount of fees and clarification that the board may establish administrative fees and continuing education fees.

SOIL CLASSIFIERS

Senate Bill No. 2131 increases the statutory range between which the State Board of Registration for Professional Soil Classifiers may set registration fees, application fees, and examination fees.

VETERINARIANS

Senate Bill No. 2139 authorizes the State Board of Veterinary Medical Examiners to issue without examination a temporary permit to a graduate of a nonaccredited or unapproved college of veterinary medicine who meets specific requirements. The bill provides such an applicant for a temporary permit must have completed a fourth year of clinical study at an accredited or approved college of veterinary medicine, have passed the examination provided by the National Board of Veterinary Medical Examiners, be enrolled in the Education Commission for Foreign Veterinary Graduates program, and must practice under the supervision of a licensed veterinarian.

WATER WELL CONTRACTORS

Senate Bill No. 2202 provides that beginning with the 2004 certificate year, the water well contractor continuing education requirements are decreased from 12 to 6 hours every two years.

MISCELLANEOUS

House Bill No. 1092 modifies the law relating to the confidentiality of Social Security numbers in the occupational licensee data base, providing that instead of being exempt from the public record law, a Social Security number is confidential. The bill provides specific confidentiality provisions for Social Security numbers in the possession of public entities.

House Bill No. 1438, as part of the bill addressing state compliance with the federal Health Insurance Portability and Accountability Act, provides an updated definition of “confidential information” for purposes of the regulation of pharmacists and updates the provision relating to the confidentiality of information acquired by a counselor in the process of rendering counseling services.

House Bill No. 1167 makes discretionary certain reports to the Governor by the State Board of Massage and the State Board of Psychologist Examiners which were previously mandatory reports.

TITLE 44
Offices and Officers
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 44. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to offices and officers may be classified in these subject areas: public officers; open records and open meetings; and notaries.

PUBLIC OFFICERS

Senate Bill No. 2185 repeals provisions relating to the approval and filing of bonds, other than bonds furnished by the state bonding fund, provided by public officers.

Senate Bill No. 2078 repeals the provision requiring a public officer whose salary is in the nature of a per diem to provide an oath before drawing any money for the officer's salary. The bill provides that travel advances for a state employee may be approved by a designee of the chief executive officer of the agency. The bill also authorizes a state agency to arrange with an in-state lodging provider or travel agency to have a lodging expense prepaid by the agency or billed directly to the agency. The bill revises references with respect to "vouchers" to refer to "payment."

House Bill No. 1180 provides that an employee of the Office of Management and Budget may review and approve vouchers and make payments for small purchases made with the use of a purchasing card by a state agency.

OPEN RECORDS AND OPEN MEETINGS

House Bill No. 1143 provides that plans, records, information, surveys, communications, and consultations used to produce the plans relating to protection of the public or public officials against threats of violence or other harm are exempt records not subject to the open records requirements. The bill also provides that those portions of a meeting which would reveal a security system plan, a public health or security plan, or a portion of any such plan are exempt from the open meetings requirements. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on March 20, 2003.

House Bill No. 1092 provides that Social Security numbers in the possession of a public entity are confidential and may not be released unless otherwise authorized by law. The bill provides that a Social Security number may be released for purposes of participation in retirement or other employment benefits programs or as authorized by the individual to whom the Social Security number is assigned, that individual's lawful agent or guardian, or by order of a court. The bill also provides that information in the files of private clients receiving legal services through the clinical education program of the University of North Dakota School of Law is confidential unless the information has been requested and is properly obtainable through applicable discovery rules. The bill provides that an investigation of a fire department or rural fire protection district is confidential until the investigation is closed and not referred for further criminal investigation or prosecution or until the criminal investigation is no longer active. The bill further provides that standard operating procedures written for emergency response, prefire action plans, plans of a building, pipeline, electrical system, or any other infrastructure plan in

the hands of a fire department or rural fire protection district are exempt from open records requirements. The bill provides that individually identifiable health information obtained by a fire department or rural fire protection district is confidential. The bill authorizes the Attorney General to request and obtain information claimed to be exempt or confidential for the purpose of determining whether the information is exempt or confidential when the Attorney General is requested to issue an opinion regarding the matter. The bill provides that the provisions relating to the confidentiality of Social Security numbers do not apply to county recorders until December 1, 2003. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on April 21, 2003.

House Bill No. 1320 provides that autopsy photographs or other visual images or video or audio recordings of an autopsy are confidential. The bill authorizes a criminal justice agency to use or disclose the autopsy images or recordings for purposes of an investigation or prosecution. The bill also provides that after redacting all information identifying the decedent and anonymizing facial recognition, a medical examiner, coroner, or physician may use an autopsy photograph, image, or recording for medical or scientific teaching or training purposes, teaching or training of law enforcement personnel, teaching or training of attorneys or others with a bona fide professional need to understand or use forensic science, conferring with medical or scientific experts, or publication in a scientific or medical journal or textbook. The bill provides that a medical examiner, coroner, or physician who has in good faith complied with the redacting and anonymizing provisions is not subject to any penalty or liability for using an autopsy photograph, image, or recording. The bill authorizes the decedent's spouse, child, parent, or sibling to view an autopsy photograph, image, or recording in the business office of a medical examiner, coroner, or physician who has possession of the materials if there is not an active criminal investigation or prosecution and authorizes disclosure of an autopsy photograph, image, or recording pursuant to subpoena or a court order.

House Bill No. 1213 provides that a telephone number or home address of a juvenile court supervisor or probation officer is confidential.

House Bill No. 1438 provides that if a public entity is acting as a business associate of another public entity, the entity acting as a business associate must comply with all requirements applicable to a business associate under federal law. The bill was declared to be an emergency measure and became effective on April 14, 2003.

Senate Bill No. 2038 provides that security codes, passwords, combinations, or security-related plans used to protect electronic information or to prevent access to computers, computer systems, or computer or telecommunications networks of a public entity are confidential. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on March 19, 2003.

House Bill No. 1078 provides that personal information regarding a licensee maintained by a state agency is exempt and not subject to the open records requirements.

Senate Bill No. 2228, with respect to the confidentiality of records acquired under an agreement between a governmental agency in another jurisdiction and the Attorney General, removes the requirement that the record be acquired pursuant to a written agreement between the entities in order for the record to be deemed confidential. The bill also provides that such a record that involves a governmental agency in another jurisdiction and the Attorney General is confidential if the Attorney General determines the record is necessary to further a civil investigation or litigation by the state, the record can be obtained only by agreeing to keep the record confidential, and the record is treated as confidential by the provider of the records. The

bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on April 4, 2003.

NOTARIES

House Bill No. 1168 requires a notary being commissioned to obtain a seal approved by the Secretary of State which must be designed to leave a clear impression, be photographically reproducible, include the words "State of North Dakota" and "Notary Public," contain the name and commission expiration date of the notary public exactly as shown on the notary's commission, and which may not contain any other words, numbers, or symbols. The bill requires that all notary seals be surrounded by a border and be either 1 5/8 inches in diameter or if of a rectangular design, may be up to or equal to 7/8 inch vertically by 2 5/8 inches horizontally. The bill provides that an official seal must remain in the direct and exclusive control of the notary at all times and requires a notary to affix the notary's seal to each jurat or certificate of acknowledgment at the time of performing the notarial act. The bill requires that each jurat or certificate of acknowledgment must contain the name of the state and county where the notarial act is being performed and prohibits a notary public from notarizing a signature on a document if the notary is falsely or fraudulently signing or notarizing a document, jurat, or certificate of acknowledgment or in any other way is impersonating or assuming the identity of another notary. The bill provides the Secretary of State discretion with respect to the penalties for a violation of an act prohibited of a notary. The bill also authorizes a notary to charge a travel fee when traveling to perform a notarial act if the notary and the person requesting the notarial act agree upon the travel fee in advance of the travel and the notary explains to the person requesting the notarial act that the travel fee is both separate from the notarial fee and neither specified nor mandated by law.

TITLE 45
Partnerships
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 45. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1362 provides for extensive grammatical changes, technical clarifications, and substantive changes to the laws relating to limited partnerships, partnerships, limited liability partnerships, and limited liability limited partnerships. The substantive changes include provisions recognizing certain electronic documents, electronic signatures, and electronic and remote communications; clarifying that unless otherwise addressed, the partnership provisions apply to the Uniform Limited Partnership Act; modifying terms of and the impact of mergers; recognizing the confidentiality of Social Security numbers and federal tax identification numbers contained in documents filed with the Secretary of State; repealing existing provisions and adding new provisions to the Uniform Limited Partnership Act regarding annual reports, fees for filing documents, and powers of the Secretary of State relative to limited partnerships; and adding provisions to the Uniform Limited Partnership Act relating to the annual audit report requirements of certain limited partnerships that produce ethyl alcohol or methanol and powers of limited partnerships relative to foreign trade zones.

House Bill No. 1498 provides a partnership may file with the Secretary of State a fictitious name certificate by electronic means; increases from 60 to 90 the number of days before the deadline for filing by which the Secretary of State shall provide a partnership with renewal forms for filing of a fictitious name; and recognizes the confidentiality of Social Security numbers and tax identification numbers contained on documents filed with the Secretary of State.

Senate Bill No. 2073 amends the Uniform Limited Partnership Act, clarifying that a foreign limited partnership is not limited to a limited partnership formed in the United States.

TITLE 46
Printing Laws
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 46. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

Senate Bill No. 2324 provides that if no newspaper maintains its principal editorial office in a county, a newspaper published in an adjoining county with general circulation in the first county may serve as that county's official newspaper. The bill reduces from two copies to one copy the number of issues of the newspaper that must be sent to the State Historical Society by the owner or publisher of each legal newspaper. The bill eliminates the requirement for a newspaper publisher to file an affidavit with the county auditor stating the number of subscribers and the length of time the newspaper has been established. The bill creates a requirement that to be placed on the ballot at the primary election for nomination as official newspaper of the county, the newspaper must file an affidavit stating that the newspaper meets all the requirements of an official newspaper.

Senate Bill No. 2340 provides that in publishing and maintaining laws, the Legislative Council may change statutory references to numbers and letters to correct references to redesignated or repealed chapters, sections, or portions of sections and may change statutory references to institutions, agencies, offices, and officers to be consistent with other statutory usage and constitutional provisions.

TITLE 47
Property
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 47. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1103 provides for a continuing appropriation to pay the expenses, including claims and refunds, for the administration of the unclaimed property division.

House Bill No. 1355 removes the requirement that a mortgagee notify the mortgagor of offering interest on an escrow account.

House Bill No. 1498 allows for the filing of electronic trade names and exempts from public records Social Security numbers on trade name documents. The bill prohibits the use of the designation of certain business associations in a trade name and changes the allowed renewal time for a trade name from within 30 days before expiration to within 90 days before expiration.

House Bill No. 1232 allows the deposit of rental security deposits in a checking account.

House Bill No. 1169 expands trademark registration and protection to service marks, including all on file in the office of the Secretary of State.

House Bill No. 1013 requires the abandoned property administrator to notify an agency within one year of receipt of state agency property. The bill requires the Commissioner of University and School Lands to present a report to the Budget Section identifying every state agency that has not submitted a claim for property belonging to that agency within one year of notification by the administrator. The bill relinquishes the right of the agency to recover its property upon approval of the Budget Section. The bill prohibits the administrator from publishing in the public notice of unclaimed property any property belonging to a state agency. The bill requires one of the annual notices of persons appearing to be owners of abandoned property to be a display advertisement that contains information on abandoned property and contact information for making an inquiry. The bill exempts dividends under \$5 from being paid to the owner of unclaimed property. The bill exempts from open records law documentation and information submitted by a claimant for the purpose of proving ownership of unclaimed property.

TITLE 48
Public Buildings
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 48. Bills primarily affecting other titles may affect this title, but those bills are not summarized in this memorandum.

House Bill No. 1297 requires the state and political subdivisions, when purchasing coal for heating purposes, to give preference to bidders supplying coal mined in North Dakota if such coal will provide equivalent British thermal units of heating value in comparison to coal mined elsewhere if the total bid price of the coal mined in this state and delivered is not higher than the total bid price of coal mined elsewhere and delivered and if state air pollution permits to operate would not limit the use of coal mined in this state due to emissions limits. The bill allows the state and political subdivisions to include any ash handling costs that may be associated with the use of North Dakota coal in evaluating the comparable price of coal mined in this state versus other coal. The bill also prohibits the state and political subdivisions from mandating the use of any particular type of coal or region where the coal is to be mined when advertising for or reviewing bids for the purchase of coal for heating purposes.

Senate Bill No. 2347 provides that a guaranteed energy savings contract of a governmental unit must include a written guarantee from the qualified provider which is for a period equal to the financing period, not exceeding 10 years, that the energy and operating cost-savings of the system will meet or exceed the costs of the system. The bill allows the governmental unit to request a waiver of the guaranteed portion of the contract for the remainder of the financing term if the governmental unit is able to document that savings meet or exceed the payment for a period of not less than three years. The bill provides that the guarantee waiver request must be approved by a committee administered by the Division of Community Services.

TITLE 49
Public Utilities
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 49. Bills primarily affecting other titles also may affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to public utilities may be classified in these subject areas: telecommunications; railroads; and Public Service Commission.

TELECOMMUNICATIONS

Senate Bill No. 2231 revises the definitions of switched access, essential telecommunications price factor, and essential telecommunications service for purposes of telecommunications regulation. The bill deletes the requirement that the price of essential telecommunication services may be charged according to the essential telecommunications price factor. The bill provides that the monthly price of residence service for telecommunications companies with over 50,000 subscribers may be increased after July 31, 1999, up to \$15.50 and may be increased after June 30, 2000, up to \$18. The bill requires every local exchange carrier to provide 1+ equal access dialing parity. The bill repeals a provision of law dealing with telephone directory notices.

House Bill No. 1135 provides that the Public Service Commission has the power to investigate and resolve numbering issues relating to assignment of NII dialing codes.

House Bill No. 1134 provides that customers of any telecommunications company that provides essential telecommunications services must be permitted to purchase essential telecommunications services separate from all other telecommunications services.

House Bill No. 1052 establishes the performance assurance fund as a special fund in the state treasury and requires the Public Service Commission to deposit payments received by the commission under the performance assurance plan in the performance assurance fund until deposits during a biennium equal \$100,000. The bill provides that money in the fund is appropriated on a continuing basis to the Public Service Commission to monitor the operation and effect of the performance assurance plan. The bill provides that payments received by the commission in excess of \$100,000 must be deposited in the general fund. The bill requires the Public Service Commission to report annually to the Budget Section of the Legislative Council with respect to the payments received under the plan and the expenditures from the performance assurance fund. The bill became effective March 28, 2003, and is effective through June 30, 2005.

RAILROADS

House Bill No. 1291 requires abandoned railroad rights of way to be offered to the present owner or operator-lessee of fixed assets located on the property; a person owning land contiguous to the right of way on opposite sides of the right of way; a person presenting a reasonable plan for public recreational use of the abandoned property which includes the continuation of current private and public crossings; and the adjoining landowner if the adjoining land, at the time of abandonment, is assessed for tax purposes as agricultural land; in that order. The bill requires the railroad company to provide written notice to present owners and

operator-lessees of fixed assets located on the property and to publish notice of its intent to dispose of the railroad right of way. The bill also provides that if five years have passed since abandonment or since service was discontinued, a railroad may deed the right of way to the county in which the right of way is located upon acceptance by the county.

Senate Bill No. 2358 prohibits railroad indemnity agreements in right-of-way leases.

House Bill No. 1372 allows a train to block or obstruct a crossing when allowed by written agreement between the governmental entity that controls the roadway and the interested commercial entities. The bill provides that the agreement must indicate which party is responsible for the timely notification of local emergency service providers regarding the crossing that will be blocked and the period of time the crossing will be blocked. The bill also increases the penalty for unlawfully blocking or obstructing a crossing by a train from an infraction to a Class B misdemeanor.

Senate Bill No. 2179 requires railroad corporations to keep a copy of their critical incident stress debriefing policies posted in a conspicuous place on an area of their premises commonly frequented by their employees.

PUBLIC SERVICE COMMISSION

House Bill No. 1363 reduces the time period during which the Public Service Commission may suspend a rate increase or decrease filing, classification, contract, practice, or rule from seven months to six months beyond the time when it otherwise would go into effect. The bill also provides that notwithstanding that the Public Service Commission may suspend a filing and order a hearing, a public utility may file for interim rate relief as part of its general rate increase application and filing. The bill provides that if interim rates are requested, the commission shall order that the interim rate schedule take effect no later than 60 days after the initial filing date and without a public hearing and establishes a procedure to calculate the interim rate schedule.

Senate Bill No. 2115 provides that information received by the Public Service Commission which was developed or obtained by the market monitor of the Midwest Independent System Operator, Incorporated, or its successor, is confidential.

TITLE 50
Public Welfare
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 50. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to public welfare may be classified in these subject areas: Department of Human Services programs; child placement and foster care; child care facilities; long-term care and related facilities; compulsive gambling treatment; child abuse and neglect; child support enforcement; and miscellaneous.

DEPARTMENT OF HUMAN SERVICES PROGRAMS

House Bill No. 1165 creates a new chapter relating to the licensing of substance abuse treatment programs. The bill provides for licensing requirements, application contents, safety requirements, and the conditions under which a license may be suspended or revoked. The bill also provides for the confidentiality of information received by the Department of Human Services through the inspection of a treatment program.

House Bill No. 1430 establishes a medical assistance drug use review program and drug prior authorization program within the Department of Human Services. The bill creates a 15-member drug use review board. The board's duties include cooperating with the department to create and implement a prospective and retrospective drug use review program for outpatient prescription drugs under the medical assistance program.

House Bill No. 1469 directs the Department of Human Services to submit amendments to the state plan for medical assistance to provide for a 60-month look-back period for assignments or transfers of property which disqualify the applicant or the applicant's spouse from the receipt of long-term care services. The bill also provides that for the purposes of medical assistance eligibility, long-term care insurance purchased after July 31, 2003, must include home health care coverage, assisted living coverage, basic care coverage, and skilled nursing facility coverage.

Senate Bill No. 2068 relates to remedial eye care services. The bill provides that except for services furnished in a medical emergency, the Department of Human Services will not pay for recommended remedial eye care services unless the individual receiving those services first applies for and receives authorization from the department.

Senate Bill No. 2069 relates to treatment services for children with serious emotional disorders. The bill provides that with the approval of the Department of Human Services, a parent with legal and physical custody of the child may obtain treatment services for the child through the out-of-home treatment services program. The bill also provides that a parent without physical custody of a child who disagrees with a child's treatment may request a judicial determination regarding the child's treatment.

Senate Bill No. 2074 relates to the eligibility requirements for medical assistance benefits. The bill removes the contingent effective date that was placed on the law when it was enacted in 2001. The bill became effective on March 26, 2003.

Senate Bill No. 2083 provides that for the purposes of determining eligibility for comprehensive human services programs, resources do not include the individual's primary home and the first \$50,000 of liquid assets. The bill also provides that an individual is not eligible to receive benefits if the individual or the individual's spouse has made any assignment or transfer of any asset for the purpose of making that individual eligible for the benefits.

Senate Bill No. 2085 removes the expiration date on the establishment of and the powers and duties of the Department of Human Services regarding a targeted case management service for disabled and elderly individuals who are eligible for medical assistance. The bill provides for the powers and duties of the Department of Human Services which may be delegated to any entity that provides assessment services approved by the department. The bill also repeals a section of the North Dakota Century Code relating to professional involvement in the assessment process. The bill became effective on April 9, 2003.

Senate Bill No. 2086 repeals a section of the North Dakota Century Code that allows providers of service to the developmentally disabled to transfer funds received from the Department of Human Services between budget categories and line items. The repeal becomes effective on July 1, 2005.

Senate Bill No. 2089 removes the expiration date on the medical assistance coverage provided by the Department of Human Services for women screened and found to have breast or cervical cancer.

Senate Bill No. 2155 provides that the definition of "work activity" for the purposes of the temporary assistance for needy families (TANF) means any activity permitted or required to be treated as work for purposes of calculating a work participation rate. The bill removes the requirement that at least 20 percent of the TANF caseload be exempt from the 60-month maximum benefits. The bill also removes the requirement that an electronic fund transfer system be implemented.

Senate Bill No. 2160 provides that all federal funds and other income generated by the Department of Human Services under a cooperative agreement with one or more county child support agencies for centralized administration of child support enforcement service is appropriated on a continuing basis for the sole purpose of hiring additional staff and payment of the expenses necessary to carry out the department's duties under the agreements.

Senate Bill No. 2194 requires the Department of Human Services to establish and implement a buy-in program to provide medical assistance to an individual who meets the definition of disabled under the federal Social Security Act. The bill also requires the department to provide personal care services for eligible medical assistance recipients who are residing in their own homes.

Senate Bill No. 2330 provides that any aged or disabled individual who is eligible for home and community-based living must be allowed to choose, from among all service options available, the type of service that best meets that individual's needs. The bill provides that to the extent permitted by any applicable waiver, the individual's medical assistance funds must follow the individual for whichever service option the individual selects, not to exceed the cost of the service.

Senate Bill No. 2359 provides that if two or more counties enter an agreement to jointly administer a program that is under the supervision of the Department of Human Services, a

county that is party to the agreement may request designation of a regional human service center for program supervision.

Senate Bill No. 2384 provides that unless certain criteria are met, the purchase of an annuity is considered an uncompensated assignment or transfer of assets under medical assistance eligibility requirements.

CHILD PLACEMENT AND FOSTER CARE

House Bill No. 1037 removes the current annual child-placing agency licensing requirement to allow for a two-year license for those agencies that are in good standing. The bill allows a child-placing agency to consider all criminal background information when making a recommendation in a home study report; makes the procedures used in foster care placements consistent with procedures used in adoption placements; provides that a child-placing agency's license may be revoked for a violation of Chapter 50-12; adds permanent guardianship to the class of guardianships that require that the department be notified if the guardianship involves bringing the child into the state for the guardianship; and addresses the licensure requirements of facilitator agencies.

House Bill No. 1084 provides that the Department of Human Services may deny or revoke a foster care license upon a showing that the application contains false or misleading material information or the applicant intentionally withholds material information or if the license was issued upon false, misleading, or intentionally withheld material information.

Senate Bill No. 2036 provides that a child with special needs is a child legally available for adoptive placement whose custody has been awarded to the Department of Human Services or a county social services board and who is seven years of age or older; who is under 18 years of age with a physical, emotional, or mental disability or has been diagnosed by a licensed physician to be at high risk for such a disability; who is a member of a minority; or is a member of a sibling group.

Senate Bill No. 2188 provides that the Department of Human Services may not deny a license to a child-placing agency because of the agency's objection to performing, assisting, counseling, recommending, facilitating, referring, or participating in a placement that violates the agency's written religious or moral convictions or policies. The bill also provides that a child-placing agency is not required to perform, assist, counsel, recommend, facilitate, refer, or participate in a placement that violates the agency's written religious or moral convictions or policies.

CHILD CARE FACILITIES

House Bill No. 1085 relates to background investigations for licensure of early childhood facilities. The bill changes the term used for determining whether child abuse or neglect is indicated from determinations of "probable cause" to determinations of "services required."

House Bill No. 1249 requires an early childhood facility licensee to notify the parent, guardian, or custodian of each child receiving care at the facility of the process for reporting a complaint or a suspected licensing violation; requires the early childhood facility licensee to notify the parent, guardian, or custodian of each child in the facility that a correction order has been issued and to post the notice in a conspicuous location; and requires the Department of Human Services to notify each parent, guardian, or custodian of each child receiving care in the facility of the issuance of a revocation notice.

LONG-TERM CARE AND RELATED FACILITIES

House Bill No. 1160 relates to the definition of “long-term care facility” and replaces the term “boardinghouse” with “assisted living facility.”

House Bill No. 1164 creates a new chapter to the North Dakota Century Code relating specifically to assisted living; provides that a facility may provide or coordinate individualized support services; changes registration of assisted living facilities to licensure of assisted living facilities; and provides that health services may be provided in an assisted living facility. The bill also repeals a section that includes references to assisted living in Chapter 50-24.5.

House Bill No. 1228 extends the moratorium on the expansion of residential child care facility or group home bed capacity from June 30, 2003, to June 30, 2005. The bill became effective on March 7, 2003.

House Bill No. 1268 allows nursing facilities that were purchased between July 1, 1985, and July 1, 2002, which currently have limits on their property costs to have those costs recognized in their payment rates beginning January 1, 2005.

Senate Bill No. 2348 relates to nursing home rates and provides that the property cost payment mechanism must recognize any mandated costs, fees, or other money paid to the Attorney General through transactions under Sections 10-33-144 through 10-33-149.

COMPULSIVE GAMBLING TREATMENT

House Bill No. 1243 provides that the lottery funds deposited in the compulsive gambling prevention and treatment fund are appropriated to the Department of Human Services on a continuing basis for the purpose of providing compulsive gambling prevention and treatment. The bill also provides for a review process for lottery winnings that are setoff for child support obligations. The bill became effective on April 4, 2003.

CHILD ABUSE AND NEGLECT

Senate Bill No. 2212 provides that imaging studies or copies of the studies and copies of results of other tests conducted as part of a child abuse and neglect investigation must be provided to the Department of Human Services upon request. The bill became effective on March 26, 2003.

Senate Bill No. 2271 imposes additional reporting requirements to those individuals required to report child abuse and neglect. The bill requires an individual required to report who has knowledge of or reasonable cause to suspect that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy to report the circumstances to the Department of Human Services if the knowledge or suspicion is derived in that individual's official or professional capacity. The bill also authorizes a physician to administer a toxicology test on a pregnant woman if the woman has obstetrical complications that are a medical indication of possible use of a controlled substance for a nonmedical purpose. The bill also requires an individual required to report child abuse or neglect to report prenatal exposure to alcohol abuse.

CHILD SUPPORT ENFORCEMENT

Senate Bill No. 2245 authorizes the Department of Human Services to disclose information to the public about a parent whose location is unknown or about an obligor who owes more than \$25,000 in past-due child support. The information disclosed may include the individual's name, last-known address, date of birth, occupation, photograph, amount of child support owed, the number and ages of the children for whom support is owed, and any other information that would assist in locating the individual. The department is required to obtain the written consent of the obligee before disclosing the information regarding the obligor.

Senate Bill No. 2246 authorizes the Department of Human Services to withhold, restrict, or suspend one or more licenses issued to a person who has failed to comply with a subpoena relating to a paternity or child support matter; an obligor who is in arrears in child support in an amount greater than three times the obligor's current or most recent monthly child support obligation or \$5,000, whichever is less; or an obligor who is not in compliance with an existing payment plan that has been negotiated between the obligor and the department. The licenses that may be withheld, restricted, or suspended include occupational, professional, recreational, motor vehicle operator, and vehicle licenses and registrations.

MISCELLANEOUS

House Bill No. 1438 provides that the State Department of Health may not disclose the contents of the records of a maternity home for unmarried mothers except in a judicial or administrative proceeding in response to an order of a court or administrative tribunal or to a law enforcement agency for law enforcement purposes. The bill became effective on April 14, 2003.

Senate Bill No. 2092 provides that the director of the Committee on Employment of People with Disabilities is an unclassified employee of the Department of Human Services and is not included in the classified service.

Senate Bill No. 2341 relates to charitable solicitation. The bill adds a definition for "accounting year"; eliminates references to religious organizations and creates a new subsection specifically for a religious society or organization; eliminates references to licensing; replaces licensing with a registration process; establishes that a board of directors, trustees, or managing group of the organization has the responsibility for determining matters of policy and for supervision of the finances; requires a professional fundraiser to file a bond for \$20,000; prescribes the information that must be reported by a charitable organization; authorizes the Attorney General to recover costs if so awarded by the court; and repeals a section of law regarding contract or statement filing.

TITLE 51

Sales and Exchanges

Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 51. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to sales and exchanges may be classified in these subject areas: consumer protection; auctioneers; and miscellaneous.

CONSUMER PROTECTION

House Bill No. 1388 creates a consumer protection law that prohibits the initiation of transmission, conspiracy with another to initiate the transmission, or assisting in the transmission of certain commercial electronic mail messages from a computer located in this state or to an electronic mail address that the sender knows is held by a resident of this state. In addition, this bill provides that the subject line of a commercial electronic mail message must include certain elements indicating the message is an advertisement or an adult advertisement; provides a sender of a commercial electronic mail message shall establish and notify the recipient of a toll-free telephone number or electronic method to allow the recipient to stop unsolicited commercial electronic mail messages; provides the amount of civil damages for violation of this law; and clarifies the relationship of this state law with federal law.

Senate Bill No. 2255 creates a law regulating telephone solicitations. The bill restricts the use of prerecorded or synthesized voice messages, the use of automatic dialing-announcing devices, the time of day of solicitations, and the interference with caller identification services; provides for a state do-not-call list; and provides for enforcement of the telephone solicitation law, including the rights of a person to bring a civil action, the powers of the Attorney General, civil penalties, and recoverable costs.

Senate Bill No. 2228 expands the scope of the consumer fraud and unlawful credit practices law to include charitable solicitation; clarifies and broadens the scope of the powers of the Attorney General in investigating and stopping consumer fraud, including the issuance of subpoenas, the issuance of cease and desist orders, civil penalties, and assessing costs associated with preventing consumer fraud; and clarifies the rights of a person aggrieved by consumer fraud protective actions of the Attorney General.

Senate Bill No. 2037 provides restrictions on the information that may be included on a customer's copy of an electronically printed credit card receipt, including limiting the credit card account numbers to the last five digits and prohibiting the inclusion of the expiration date of the credit card. This law becomes operative on January 1, 2004, with respect to new cash registers and becomes effective January 1, 2007, with respect to cash registers that are first put into use before January 1, 2004.

AUCTIONEERS

Senate Bill No. 2114 clarifies the requirements for an initial auctioneer or auctioneer clerk license; clarifies that auctioneer and auctioneer clerk applications for renewal must be received by the Public Service Commission by the end of the year in order to avoid a late assessment; and provides that the size of an auctioneer's or auctioneer clerk's bond must be clearly and prominently stated in all contracts with sellers.

Senate Bill No. 2229 extends from 15 days to 30 days the length of time in which an auctioneer or auctioneer clerk is required to account for or remit funds of another.

MISCELLANEOUS

House Bill No. 1266 updates the law relating to contract remedies for retail sellers of farm implement, lawn and garden equipment, or vehicles in the case of a canceled contract with a manufacturer, wholesaler, or distributor. This bill, in addition to adding lawn and garden equipment sellers to the retailers covered under this law, addresses the payment for specialized tools for the covered merchandise.

House Bill No. 1088 addresses court administration fees, including changing a reference to "court costs" to "administration fee" in the law relating to transient merchant licensees.

Senate Bill No. 2128 increases the sale of checks licensure investigation fee from \$300 to \$400 and increases an annual sale of checks license fee from \$200 to \$300.

TITLE 52

Social Security

Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 52. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to Social Security may be classified in these subject areas: unemployment insurance; Old-Age and Survivor Insurance System and retirement; and miscellaneous.

UNEMPLOYMENT INSURANCE

House Bill No. 1096 limits the definition of "wages" as that term applies to unemployment insurance, providing that certain supplemental unemployment compensation payments are not considered wages; clarifies the authority of employees of Job Service North Dakota to inspect employer records and the civil fine for failure to comply; clarifies circumstances under which a base period employer's account may not be charged if an employee quits or is discharged for misconduct or if an employee is employed part time with the employer; clarifies the circumstances under which an employer may contest the chargeability to the employer's account of unemployment insurance benefits paid; and clarifies when a corporate or partnership ownership interest has been ceded for purposes of unemployment insurance eligibility.

House Bill No. 1097 removes the unemployment insurance tax rate determination based on industry group classification and provides that if an employer fails to file a report with Job Service North Dakota as required, the tax rates for experience-rated positive employers is the negative employer minimum rate, experience-rated negative employers is the negative employer maximum rate, new positive nonconstruction employers is the negative employer minimum rate, new positive construction employers is the negative employer maximum rate, and new negative employers is the negative employer maximum rate.

House Bill No. 1098 addresses when a right, matter, or fact becomes final and conclusive following an unemployment insurance decision or appeal.

House Bill No. 1099 accelerates the repeal of the unemployment compensation shared work law from July 1, 2003, to March 12, 2003.

House Bill No. 1115 provides that Job Service North Dakota may enter memoranda of understanding with the United States Census Bureau to furnish unemployment insurance data to the Census Bureau and for Census Bureau sharing of information with Job Service North Dakota.

OLD-AGE AND SURVIVOR INSURANCE SYSTEM AND RETIREMENT

House Bill No. 1063 switches administration of the Old-Age and Survivor Insurance System from Job Service North Dakota to the Public Employees Retirement System Board; provides the State Treasurer shall manage the old-age and survivors' insurance trust fund; and increases the old-age and survivors' primary insurance benefit amount. Additionally, the bill provides the executive director of Job Service North Dakota may enter an agreement with the federal Security Agency, Social Security Administration Bureau of Old-Age and Survivor Insurance to

provide coverage for National Guard state civilian employees under the Old-Age and Survivor Insurance System provisions of the Social Security Act.

House Bill No. 1064 authorizes the North Dakota National Guard, rather than Job Service North Dakota, to contract to establish an employee retirement program. The bill also provides that the Public Employees Retirement System Board administers the retirement plan established in 1961 and frozen to new entrants in 1980 for employees of Job Service North Dakota.

MISCELLANEOUS

Senate Bill No. 2092 corrects a reference to reflect the name change of Central Personnel System to North Dakota Human Resource Management Services.

Senate Bill No. 2109 repeals the law providing how the State Board for Vocational and Technical Education distributes workforce training funds.

TITLE 53

Sports and Amusements

Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 53. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to sports and amusements may be classified in these subject areas: charitable gaming; lottery; horse racing; and miscellaneous.

CHARITABLE GAMING

House Bill No. 1239 authorizes the Attorney General to allow an employee of an alcoholic beverage establishment to provide limited assistance to an organization in conducting prize boards and sports pools.

House Bill No. 1404 reduces from \$4,000 to \$1,000 the annual license fee for a manufacturer of pull tab dispensing devices.

Senate Bill No. 2003 provides that up to \$36,000 per biennium of gaming stamps sold must be credited to the Attorney General's operating fund to defray the costs of issuing and administering the gaming stamps.

Senate Bill No. 2148 enables an organization that only conducts raffles or calcuttas in two or more cities or counties to annually apply for one consolidated license rather than separate licenses. The bill provides that the value of a merchandise prize is its retail price, excluding sales tax. The bill provides that for the game of twenty-one, an organization may use a metal coin instead of a clay or plastic chip as the "fifty-cent" chip. Also for the game of twenty-one, the bill provides that if there is more than one table that is active at a site, an organization may set a minimum bet limit on no more than one-half of the active tables. The bill enables the Attorney General's office to allow an organization to pay delinquent tax, interest, or penalty on an installment plan. The bill enables the Attorney General to prohibit an organization from paying a bingo prize to a player on a dispute or based on a factual determination or a hearing by the Attorney General. The bill increases the maximum primary prize value from \$1,000 to \$2,500 and increases the total prizes of all games from \$6,000 to \$12,000 per year.

LOTTERY

House Bill No. 1243 establishes the North Dakota Lottery and authorizes the state to enter an agreement with a government-authorized lottery for the operation, marketing, and promotion of a joint lottery game. The bill provides that the North Dakota Lottery is to be a division of the Attorney General's office. The bill provides that a director appointed by the Attorney General is responsible for the supervision and administration of the operation of the lottery. The bill also creates a lottery advisory commission. The duties of the five-member commission include advising the director and the Attorney General in the establishment and operation of the lottery and for the initial selection of lottery retailers. The bill prohibits the sale of lottery tickets to minors, members of the advisory commission, vendors and employees of vendors, and employees of the lottery. The bill became effective on April 4, 2003.

HORSE RACING

Senate Bill No. 2015 requires the Racing Commission to reinstate race dates and issue a license under the certificate system to any racetrack in the state which was operational after December 31, 2000. This section of the bill relating to the Racing Commission became effective in May 2003, and is effective through December 31, 2004.

Senate Bill No. 2285 relates to the parimutuel tax levied on wagers. The bill provides that on win, place, and show parimutuel pools, on the first \$35,500,000 of total wagering handle in each biennium, two percent must be deposited in the general fund. On total wagering handle in excess of \$35,500,000 in each biennium, 1.5 percent is to be deposited in the general fund. The bill provides that on daily double, quinella, exacta, trifecta, or other wagers combining two or more horses for winning payoffs, on the first \$102,400,000 of wagering handle in each biennium, 2.5 percent must be deposited in the general fund and on total wagering handle in excess of \$102,400,000, .25 percent must be deposited in the general fund.

MISCELLANEOUS

House Bill No. 1067 exempts all boxing or sparring exhibitions conducted by bona fide educational institutions or by national amateur boxing associations or their local affiliates from the supervision of the State Athletic Commissioner.

Senate Bill No. 2321 relates to the limited liability of the owner of land used for recreational purposes. The bill provides that the chapter does not limit the liability that otherwise exists for injury suffered in any case in which the total charges collected by the owner in the previous calendar year for all recreational use of land under the control of the owner are more than twice the total amount of property taxes imposed on the land for the previous calendar year or, in the case of agricultural land, four times the total amount of property taxes imposed on the land for the previous calendar year.

May 2003

TITLE 54

State Government

Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 54. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

RELOCATION ASSISTANCE

House Bill No. 1275 removes the statutory maximum amount a state agency may provide for payment to displaced persons for the reestablishment of a displaced farm, nonprofit organization, or small business at a new site as a result of a project undertaken by the state agency. The bill authorizes the agency to determine reasonable moving expenses based on criteria established by the agency. The bill is effective through July 31, 2007. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on April 9, 2003.

STATE ART MUSEUM

Senate Bill No. 2318 removes the prohibition on the use of general fund money to be used to support the state art museum, which is the North Dakota Museum of Art on the University of North Dakota campus.

LEGISLATIVE ASSEMBLY

Senate Bill No. 2051 updates the statutory requirements for the organizational session agenda to recognize current practices of electing leaders before the organizational session convenes and to recognize that all procedural committees are appointed and that some begin work during the organizational session.

Senate Bill No. 2029 provides that a legislative measure mandating health insurance coverage of services or payment for specified providers of services may not be acted on by any committee of the Legislative Assembly unless the measure as recommended by the committee provides the measure is effective through June 30 of the next odd-numbered year following the year in which the Legislative Assembly enacted the measure, and after that date the measure is ineffective; the application of the mandate is limited to the public employees health insurance program and the public employee retiree health insurance program; and that for the next Legislative Assembly, the Public Employees Retirement System shall prepare and request introduction of a bill to repeal the expiration date and to extend the mandated coverage or payment to apply to accident and health insurance policies. The bill requires the Public Employees Retirement System to append to the bill a report regarding the effect of the mandated coverage or payment on the system's health insurance programs.

Senate Bill No. 2138 requires the Secretary of State to certify to the Secretary of the Senate and the Chief Clerk of the House of Representatives the members of those bodies who served in the preceding session of the Legislative Assembly and whose terms have not expired. The bill also provides that the Secretary of State shall certify to the Secretary of the Senate and the Chief Clerk of the House of Representatives members of those bodies to whom certificates of election have been issued or appointments have been filed since the preceding session of the Legislative Assembly.

House Bill No. 1507 provides that if during a special session, the Legislative Assembly adjourns for more than three days, a member of the Legislative Assembly is entitled to receive compensation during those days only while in attendance at a standing committee if the legislator is a member of that committee, a majority or minority leader, or a legislator who is not on that committee but who has received approval of a majority or minority leader to attend. The bill is retroactive in application to May 4, 2003. The bill was adopted at the special session of the Legislative Assembly which convened on May 5, 2003.

STATE EMPLOYEES

Senate Bill No. 2106 provides that for the purposes of annual leave and sick leave for state employees, an employee's years of state employment must be deemed continuous if, under the official personnel policy of an agency, unit, or entity, the employee's work is terminated because of a reduction in force and the employee is reinstated in any agency, unit, or entity within two years, or if the employee is placed on voluntary leave status without pay and the leave lasts no longer than two years for education purposes, or one year for any other voluntary leave without pay.

House Bill No. 1093 removes the expiration date of June 30, 2005, on provisions relating to the state employee performance bonus program and state employee recruitment and retention bonus program. The bill also expands those programs to apply to all state employees rather than only classified state employees. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on March 20, 2003.

Senate Bill No. 2108 provides that the chairman of the State Employees Compensation Commission may call a special election to fill a vacancy on the commission for the remainder of the unexpired term of the position vacated if the eligible person who received the next highest vote total in the previous election is not available to fill the vacancy. The bill provides that vacancies among legislative members of the State Employees Compensation Commission may be filled for the remainder of the unexpired term by appointment by the chairman of the Legislative Council.

House Bill No. 1167 removes the requirement that all state officers, departments, boards, and institutions that are required to submit reports covering their operations for the two preceding fiscal years submit a copy of the report to the State Library.

Senate Bill No. 2078 repeals the requirement that state employees hired on a full-time monthly basis must receive a maximum pay of not less than \$350 per month after June 30, 1973. The bill also removes the requirement that the State Auditor sign state employees' and state officers' paychecks. The bill provides that state employee and officer salaries be paid not less frequently than monthly.

GOVERNOR

Senate Bill No. 2050 requires the Governor to accept delivery of bills passed by the Legislative Assembly and presented to the Governor during regular business hours. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on March 12, 2003.

SECRETARY OF STATE

Senate Bill No. 2072 provides that service of process on the Secretary of State must be made by registered mail or personal delivery to the Secretary of State and not by electronic communication. The bill also repeals and recodifies in a different section a provision that states

that a member of the Legislative Assembly or a state or county official may not be charged by the Secretary of State for any search relative to matters appertaining to duties of office, any fee for a certified copy of any law or resolution passed by the Legislative Assembly relative to the individual's official duties, or for filing any process, notice, or demand for service relative to the individual's official duties.

Senate Bill No. 2394 provides that money in the Secretary of State's general services operating fund be used for the provision of voter lists or reports generated from the central voter file. The bill provides that funds received by the Secretary of State to pay the cost of producing a report or list of voters must be deposited in the general services operating fund.

House Bill No. 1492 provides that the computerized central indexing system maintained by the Secretary of State must include information regarding notices of delinquent taxes owed to a county.

STATE AUDITOR

House Bill No. 1051 provides that a draft audit report of the State Auditor which is released to the governing body or management of an audited entity is confidential until the final audit report is issued or work ceases on the audit. The bill also provides that working papers, which are exempt from open records requirements, include draft audit reports.

Senate Bill No. 2004 prohibits the State Auditor from hiring a consultant to assist with conducting a performance audit of a state agency unless the auditor has received the prior approval of the Legislative Audit and Fiscal Review Committee. The bill requires the State Auditor to notify an agency of the need for a consultant before requesting approval by the Legislative Audit and Fiscal Review Committee. The bill requires the agency that is audited to pay the cost of any consultant approved. The bill becomes effective on July 1, 2003.

House Bill No. 1100 provides the State Auditor the discretion whether to report to the Attorney General the refusal or neglect of a state officer to obey the State Auditor's recommendations. The bill revises references to the types of records that must be kept by the State Treasurer. The bill also provides that the director of the Office of Management and Budget, rather than the State Auditor, is to recommend a form for order and warrant-check of the state government.

House Bill No. 1243 requires the State Auditor to audit the North Dakota Lottery annually.

STATE TREASURER

Senate Bill No. 2118 repeals a provision relating to the duty of the State Treasurer with respect to redemption of warrants drawn by the Office of Management and Budget. The bill requires the State Treasurer to authenticate documents issued from the State Treasurer's office with the official state seal rather than the seal of the State Treasurer. The bill also removes the requirement that the State Treasurer keep a book in which the State Treasurer must enter all warrants paid, giving the name of the owner and the number and amount of each warrant. The bill requires the State Treasurer to create and publish records via electronic devices and in compliance with state audit guidelines.

ATTORNEY GENERAL

House Bill No. 1350 authorizes the Attorney General to establish a special operations team reimbursement fund of up to \$250,000 consisting of federal funds and money obtained from cities and counties. The bill provides a continuing appropriation of the funds to the Attorney General for reimbursement to city and county governments that provide special operations team

services to rural areas. The bill requires the Attorney General to develop guidelines for the reimbursement of expenses to city and county governments providing special operations team services.

Senate Bill No. 2151 transfers the State Crime Laboratory Division to the office of the Attorney General. The bill provides that the division consists of a director, the State Toxicologist, and other personnel as appointed by the Attorney General. The bill authorizes the State Crime Laboratory to establish and charge fees for services rendered. The bill provides that the State Crime Laboratory must be administratively separated from the Bureau of Criminal Investigation. The bill provides that the results of toxicological or chemical testing or analysis made by the State Toxicologist at the request of law enforcement agencies for criminal investigation may not be disclosed by the State Toxicologist to anyone other than the person or agency requesting the test or analysis or to any other person upon whom the toxicological or chemical test was performed. The bill authorizes the Attorney General to make available to the state forensic examiner, a state's attorney, sheriff, chief of police, coroner, or other law enforcement official the State Crime Laboratory's facilities and personnel to assist in the investigation or detection of crimes and the apprehension or prosecution of criminals. The bill was declared to be an emergency measure and becomes effective on July 1, 2003.

EMERGENCY COMMISSION

House Bill No. 1421, which was vetoed by the Governor, would have replaced the chairman of the Legislative Council as a member of the Emergency Commission with the majority leaders of the Senate and the House of Representatives. The bill also would have revised procedures for presenting requests to the Emergency Commission to transfer money and spending authority between funds or line items, accept and expend federal funds, accept and expend state contingency funds, and accept and expend other funds. The bill provided that approval by the Budget Section of the Legislative Council would not be required if a transfer or acceptance of funds was necessary to avoid an imminent threat to the safety of people or property due to a natural disaster or war crisis or an imminent financial loss to the state.

Senate Bill No. 2422 revises procedures for presenting requests to the Emergency Commission to transfer money and spending authority between funds or line items, accept and expend federal funds, accept and expend state contingency funds, and accept and expend other funds. The bill provides that approval by the Budget Section of the Legislative Council is not required if a transfer or acceptance of funds is necessary to avoid an imminent threat to the safety of people or property due to a natural disaster or war crisis or an imminent financial loss to the state. The bill was adopted during the special session of the 58th Legislative Assembly, which convened on May 5, 2003. The bill becomes effective on August 1, 2003.

INDUSTRIAL COMMISSION

Senate Bill No. 2311 creates an Oil and Gas Research Council and oil and gas research fund. The bill provides that the purpose of the council is to coordinate a program designed to demonstrate to the general public the importance of the state oil and gas exploration and production industry, to encourage and promote the wise and efficient use of energy, to promote environmentally sound exploration and production methods and technologies, to develop the state's oil and gas resources, and to support research and educational activities concerning the oil and natural gas exploration and production industry. The bill provides that the oil and gas research fund is a special fund appropriated on a continuing basis to the Oil and Gas Research Council for the purposes of the council, including the making of grants or loans for research, development, marketing, and educational projects, and processes or activities directly related to oil and gas exploration and production.

Senate Bill No. 2261 authorizes the state, acting through the Industrial Commission, to enter agreements to lease interests in the plant or equipment of any waterworks, mains, or water distribution system or any sewage system to or from a municipality or other political subdivision or to or from any person. The bill provides that the agreements include a lease, sublease, purchase agreement, lease-purchase agreement, installment purchase agreement, leaseback agreement, or other contract, agreement, instrument, or arrangement under which any rights, interests, or other property are transferred to, by, or from any party to, by, or from one or more parties. The bill provides that any lease obligation entered is payable solely from revenues to be derived by the state or any agency or institution of the state from the ownership, sale, lease, disposition, and operation of the plant or equipment of the waterworks, mains, or water distribution system or sewage system; any funds or investments permitted under state law; revenues to be derived by the state from any support and operating agreement relating to the waterworks, mains, water distribution system, or sewage system; funds appropriated by the Legislative Assembly; and income or proceeds from any collateral pledged for that purpose. The bill also provides that the state or any agency or institution of the state may enter agreements to lease the real or personal property belonging to the state from any agency or institution of the state or any person. The bill provides that such agreements must be approved by the Industrial Commission. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on April 15, 2003.

Senate Bill No. 2232 authorizes the Industrial Commission to issue subordinate or residual bonds in a total principal amount not to exceed \$23 million plus costs of issuance and any reasonably required reserve whenever the Industrial Commission determines that it is appropriate or expedient to do so.

House Bill No. 1339 provides a statement of legislative intent that declares that it is an essential governmental function and public purpose to assist with the removal of electrical transmission export constraints and to assist with the upgrading and expansion of the region's electrical transmission grid to facilitate the development of the state's abundant natural resources for export to the region's consumers. The bill requires the Industrial Commission to give priority to those projects, processes, or activities that assist with the resolution of electricity transmission export constraints in this state.

STATE BUILDING CODE

House Bill No. 1345 provides that a modular residential structure or a prebuilt home placed in the state must be constructed in compliance with the State Building Code and such a structure placed in a jurisdiction that has amended the State Building Code must be constructed in compliance with the State Building Code and the amendments adopted by that jurisdiction. The bill requires the manufacturer of a modular residential or commercial structure that is built in a factory to contract with a third party for the inspection of the structure for compliance with all applicable building, electrical, fire, and plumbing codes and standards during the manufacturing process in the factory. The bill exempts from that requirement a factory manufacturing fewer than six residential or commercial structures per year.

STATE RADIO

Senate Bill No. 2064 provides that the fee for 911 wireless services must be charged to and paid by the political subdivision receiving services from State Radio Communications from and after the date of the agreement entered by the political subdivision, whether the date of that agreement is before or after the effective date of this bill. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on April 4, 2003.

DEPARTMENT OF CORRECTIONS AND REHABILITATION

House Bill No. 1073 authorizes the director of the Department of Corrections and Rehabilitation to lease land owned by the state under the jurisdiction of the Department of Corrections and Rehabilitation. The bill provides that a lease by the director is not subject to the statutory requirements with respect to the sale or exchange of land under the jurisdiction of the department.

TOBACCO SETTLEMENT TRUST FUND

Senate Bill No. 2022 removes the requirement that during each biennium transfers must be made to the water development trust fund until the State Water Commission certifies to the State Treasurer that deposits in the water development trust fund during a biennium are sufficient to pay the principal and interest for that biennium on bonds authorized for statewide water development projects.

LEGISLATIVE COUNCIL

Senate Bill No. 2418 requires the Legislative Council to appoint a select committee consisting of five members of the Senate and six members of the House of Representatives for the purpose of investigating the adoption of the No Child Left Behind Act of 2001, its rationale, the promulgation of any federal regulations implementing the Act, the direct and indirect impact of the Act and its regulations on the school districts of the state, and the financial impact of the Act and regulations on the budget of the state and on the taxpayers of the state. The bill requires an agency that files a notice of proposed rulemaking with the office of the Legislative Council to provide a copy of the notice to the chairman of the select committee so that the select committee may receive a presentation by the agency regarding the nature and the scope of the proposed rules. The bill requires the select committee to report to the 59th Legislative Assembly if the committee determines the state is not in compliance with any requirement of the No Child Left Behind Act. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on April 24, 2003.

Senate Bill No. 2015 extends the duration of the Electric Industry Competition Committee from August 1, 2003, until August 1, 2007. The bill also increases the membership of the Electric Industry Competition Committee to include six members of the House of Representatives and six members of the Senate, four of whom from each house must be from the majority political party and two of whom must be from the minority political party. The bill also provided that any allotment to control the rate of state expenditures must be made to the extent necessary to address any projected deficiency appropriations for agencies receiving money from the foundation aid stabilization fund. The bill provides that the statement of unappropriated surplus for the general fund must reflect any projected deficiency appropriations relating to expenditures from the general fund for the present biennium. The bill required each state agency and institution, excluding the legislative and judicial branches, the institutions under the control of the State Board of Higher Education, the Public Employees Retirement System, the Retirement and Investment Office, and the Attorney General, to obtain electronic mail, file and print server administration, data base administration, storage, and application server and hosting services from the Information Technology Department. After the adjournment of the legislative session the Governor line item vetoed the provisions relating to the allotment and the use of the Information Technology Department services.

House Bill No. 1230 repeals the requirement that the Legislative Council create a Garrison Diversion Overview Committee. The bill provides that the Legislative Council is responsible for legislative overview of the Garrison Diversion Project and related matters and for any necessary discussions with adjacent states on water-related topics.

INDIAN AFFAIRS COMMISSION

House Bill No. 1005 authorizes the Indian Affairs Commission to produce and distribute publications and informational and educational materials and to charge a fee for the publication, which must be in an amount equal to the postage and printing costs of the publication. The bill establishes a revolving fund known as the Indian Affairs Commission printing fund, in which all money collected by the commission from fees from persons purchasing publications and informational and educational materials produced or distributed by the commission and money received from any person for producing and distributing publications and informational and educational materials must be deposited. The bill provides that money in the Indian Affairs Commission printing fund and earnings on the money in the fund are appropriated on a continuing basis to the commission to defray expenses incurred in producing and distributing publications and informational and educational materials. The bill provides that if on the first day of July in any year the amount of money in the Indian Affairs Commission printing fund is more than \$25,000, the amount in excess of \$25,000 must be transferred to the general fund. The provisions of the bill relating to the Indian Affairs Commission printing fund were declared to be an emergency measure and became effective upon the filing of the bill with the Secretary of State on May 2, 2003.

OFFICE OF MANAGEMENT AND BUDGET

House Bill No. 1441 authorizes the State Investment Board, upon request of the director of the Office of Management and Budget and upon approval by the Industrial Commission, to purchase oil put options for the Office of Management and Budget. The bill provides that the purchase of put options must be designed to offset reduced state general fund oil and gas tax revenues due to oil and gas prices falling below selected levels. The bill authorizes the purchase of put options only at such times that the purchase assures that oil tax revenues plus the revenues from the state of put options would be in excess of the oil tax revenues estimated for that level of production by the most recently adjourned Legislative Assembly. The bill requires the Office of Management and Budget to report any purchases of put options to the Budget Section of the Legislative Council. The bill is effective through June 30, 2005.

Senate Bill No. 2075 provides that for each piece of surplus property sold for less than \$3,000, all proceeds must be retained in the surplus property operating fund unless the Office of Management and Budget determines the sale proceeds are subject to special requirements for distribution. The bill requires the Office of Management and Budget, at the end of each biennium, to transfer all funds in the surplus property operating fund which exceed the amount needed to operate the surplus property function for one year to the general fund.

House Bill No. 1076 requires the director of the budget to submit proposed general and special appropriations legislation embodying the budget data and recommendations of the Governor to the Legislative Council within seven days after the day of adjournment of the organizational session. The bill provides that other budget data information must be made available to the Legislative Assembly at the organizational session.

House Bill No. 1003 extends until June 30, 2005, the requirement that budget estimates for the North Dakota University System must include block grants for the University System for a base funding component and for an initiative funding component for specific strategies or initiatives and a budget estimate for an asset funding component for the renewal and replacement of physical plant assets at the institutions of higher education. The bill also extends through June 30, 2005, provisions which allow the North Dakota University System to use funds carried over from one biennium to the next biennium.

Senate Bill No. 2092 changes the name of the Central Personnel Division to North Dakota Human Resource Management Services.

Senate Bill No. 2107 provides that records of North Dakota Human Resource Management Services (formerly the Central Personnel Division) which relate to mediation services provided by that office are exempt from open records requirements. The bill provides that an employee may not be discharged, disciplined, or penalized concerning the employee's compensation, conditions, location, or other privileges of employment because of the employee's request for oral participation in the mediation services provided by North Dakota Human Resource Management Services.

House Bill No. 1180 revises provisions relating to the procurement of services by the Office of Management and Budget or other agencies or institutions in the executive branch. The bill provides that all services purchased by the Office of Management and Budget or by an agency or institution in the executive branch must comply with the standards and guidelines for procurement of services established by the Office of Management and Budget. The bill requires each agency or institution in the executive branch to file with the Office of Management and Budget, before March 1 of each year, a report regarding the services purchased the preceding year. The bill defines "services" as the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports that are merely incidental to the required performance. The bill provides that effective July 1, 2004, the term "services" also includes professional services. The bill includes procedures for entering a contract for commodities or services through the use of competitive sealed bidding, provisions relating to small purchases, and procedures for the resolution of protested solicitations and awards.

House Bill No. 1075 revises a declaration of legislative intent to clarify that the statewide forms management program is within the Information Technology Department.

PUBLIC EMPLOYEES RETIREMENT SYSTEM

Senate Bill No. 2033 includes peace officers and correctional officers employed by political subdivisions in the defined benefit retirement plan.

Senate Bill No. 2058 provides that elected officials of counties participating in the Public Employees Retirement System may enroll in the defined benefit plan within the first six months of the official's term. The bill provides that nonstate appointed officials of employers participating in the Public Employees Retirement System who are appointed on or after August 1, 1999, who meet the participation requirements of the Public Employees Retirement System must be enrolled in the defined benefit plan effective within the first month of taking office. The bill authorizes the Public Employees Retirement System Board to accept trustee-to-trustee transfers as permitted by the Internal Revenue Code from an Internal Revenue Code Section 403(b) annuity or Internal Revenue Code Section 457 deferred compensation plan for the purchase of permissive service credit or as repayment of a cashout from a governmental plan and authorizes the board to establish individual retirement accounts and individual retirement annuities as permitted by the Internal Revenue Code to allow employees to make voluntary employee contributions. The bill changes the definition of "governmental unit" to exclude the Highway Patrol for members of the Highway Patrolmen's retirement plan and changes the definition of "retirement" to include termination of participation in the retirement plan and meeting the normal retirement date. The bill provides that for purposes of multiple plan membership, service credit in the Teachers' Fund for Retirement, the Highway Patrolmen's retirement system, or the Teachers' Insurance and Annuity Association of America - College Retirement Equities Fund may not exceed 12 months of credit per year. The

bill provides that for purposes of determining benefits in multiple plan membership situations, an employee may elect to have benefits calculated using the average of the highest salary received by the member for any 36 months employed during the last 120 months of employment in the Public Employees Retirement System or the average of the highest salary received by the member for any 36 consecutive months during the last 120 months of employment with any of the three eligible employers with service credit not to exceed one month in any month when combined with the service credit in the alternative retirement system. The bill authorizes an employee who has dual membership rights to elect to begin participation in an alternative plan or continued participation in the Public Employees Retirement System. The bill includes provisions to allow participating employers to purchase additional service credit on behalf of members under certain conditions. The bill establishes standards for apportioning deferred compensation assets under qualified domestic relations orders and allows employers of employees participating in the defined contribution retirement plan to make contributions for the conversion of sick leave. The bill authorizes a participating member, or a member not presently under covered employment, to request credit and contributions for qualified military service pursuant to the Uniformed Services Employment and Reemployment Rights Act of 1994.

Senate Bill No. 2013 includes within the definition of an “eligible employee” for purposes of participation in the Public Employees Retirement System, nonteaching employees of the Superintendent of Public Instruction, including the Superintendent of Public Instruction, who elect to transfer from the Teachers’ Fund for Retirement to the Public Employees Retirement System. The bill authorizes a nonteaching employee of the Superintendent of Public Instruction, including the Superintendent of Public Instruction, who is otherwise eligible to participate in the Public Employees Retirement System, to file an election with the staff of the Retirement and Investment Office to transfer from the Teachers’ Fund for Retirement to the Public Employees Retirement System at any time between July 1, 2003, and 5:00 p.m. on August 29, 2003. The bill provides that for nonteaching employees of the Superintendent of Public Instruction who elect to participate in the Public Employees Retirement System, the Superintendent of Public Instruction shall contribute monthly to the retiree health benefits fund an amount equal to 3.1 percent of the monthly salary or wages of those nonteaching employee members, beginning on the first of the month following the transfer and continuing for a period of eight years after which time the Superintendent must contribute 1 percent of the monthly salary or wages of those nonteaching employee members.

House Bill No. 1064 transfers administration of the Old-Age and Survivor Insurance System from Job Service North Dakota to the Retirement Board.

Senate Bill No. 2060 requires permanent employees after August 1, 2003, to be employed at least 20 hours per week as opposed to 17.5 hours per week for those employed before August 1, 2003, to participate in the uniform group insurance program. The bill provides that a retiree who has met the initial eligibility requirements for participation in the uniform group insurance program remains eligible as long as the retiree maintains the retiree’s participation in the program by paying the required premium. The bill requires the Retirement Board to develop an employer-based wellness program that encourages employers to adopt a board-developed wellness program by either charging an extra health insurance premium to nonparticipating employers or reducing the premium for participating employers. The bill provides that information pertaining to an eligible employee’s group medical records for claims, employee premium payments made, salary reduction amounts taken, history of any available insurance coverage purchased, and amounts and types of insurance applied for under the supplemental life insurance coverage may be disclosed to a person or entity if the purpose of the disclosure is for treatment, payment, or health care operations. The bill also provides that records and information pertaining to a public employee’s medical and dependent care reimbursement under

the pretax benefits program may be released to a person to which the board is required to disclose information pursuant to federal or state law or any person or entity if the purpose of the disclosure is for health care treatment, payment, or operations.

Senate Bill No. 2176 allows a retiree who has accepted a retirement allowance from a political subdivision's retirement plan to elect to participate in the uniform group insurance program without meeting minimum requirements at age 65, when the employee's spouse reaches age 65, upon the receipt of a benefit, when the political subdivision joins the uniform group insurance plan if the retiree was a member of the former plan, or when the spouse terminates employment. The bill requires each retiree or surviving spouse to pay directly to the board the premiums in effect for the coverage then being provided.

Senate Bill No. 2077 provides that for the purposes of state employee leave programs, an "employee" means an individual employed by an employer for at least 12 months and who has worked at least 1,250 hours for the employer over the previous 12 months. For the purposes of granting a family leave of absence for caring for an employee's child by birth or a child by adoption, the bill provides that the leave must conclude within 12 weeks rather than 16 weeks after the child's birth or after the child's placement, respectively. The bill requires an employer to grant an employee's request for family leave of absence because of the employee's serious health condition that makes the employee unable to perform the functions of the employee's job. The bill also provides that the 12 workweeks allowed for family leave may be taken intermittently. The bill provides that if an employee normally works a part-time schedule or variable hours, the amount of leave to which the employee is entitled must be determined on a pro rata or proportional basis by comparing the new schedule with the employee's normal schedule.

UPPER GREAT PLAINS TRANSPORTATION INSTITUTE

House Bill No. 1087 revises the membership of the Advisory Transportation Council. The bill removes the traffic counsel and removes the Stockmen's Association member. The bill adds to the council a representative of the North Dakota Grain Growers Association, the Department of Transportation, the Agriculture Commissioner, the North Dakota Association of General Contractors, and the North Dakota primary sector of manufacturing. The bill includes within the purposes of the Upper Great Plains Transportation Institute research with respect to the influence on the social economic systems of the state, region, and country of marketing factors associated with the geographical location of the state and the Upper Great Plains in the field of transportation.

INFORMATION TECHNOLOGY DEPARTMENT

House Bill No. 1022, which was vetoed by the Governor after adjournment of the legislative session, would have required the Information Technology Department to appoint an advisory committee consisting of representatives of state agencies for the purposes of prioritizing major computer software projects and establishing policies, standards, and guidelines for executive branch state agencies, departments, and institutions, excluding institutions under control of the State Board of Higher Education and agencies of the judicial and executive branches with respect to the purchase of computer software and the computer systems. The bill would have authorized the Legislative Council's Information Technology Committee to request the State Auditor to conduct an information technology compliance review of an agency's information technology management, information technology planning, compliance with information technology plans, and compliance with information technology standards and policies or an audit of statewide compliance with specific information technology standards and policies. The bill would have provided the State Auditor with the authority to conduct the audits and required

the State Auditor to present results of the audits and compliance reviews to the Information Technology Committee and the Information Technology Department's Enterprise Architecture Committee. The bill would have provided that the Information Technology Department may not exercise its powers and duties in a manner that competes or otherwise interferes with the provision of telecommunications services to private, charitable, or nonprofit entities by privately or cooperatively owned telecommunications companies. The bill would have authorized the Information Technology Department to provide wide area network services to a state agency, city, county, school district, or other political subdivision but would have prohibited the department from providing those services to any private, charitable, or nonprofit entity. The bill would have allowed the Information Technology Department to continue to provide any wide area network service the department provided to a private, charitable, or nonprofit entity that received services from the department on January 1, 2003. The bill would have required the Information Technology Department to purchase information technology equipment, software, and supply items with a cost greater than \$5,000 on behalf of other state agencies, departments, and institutions, excluding institutions under control of the State Board of Higher Education and authorized the department to charge a purchasing fee of 10 percent for those purchases. The bill would have required that policies, standards, and guidelines developed by the Information Technology Department to recognize the uniqueness of certain agencies and state which agencies would be included or exempted from the policies, standards, and guidelines. The bill also would have required that the policies, standards, and guidelines be approved by the state Information Technology Advisory Committee.

House Bill No. 1505 requires the Information Technology Department to appoint an advisory committee consisting of representatives of state agencies for the purposes of prioritizing major computer software projects and establishing policies, standards, and guidelines for executive branch state agencies, departments, and institutions, excluding institutions under control of the State Board of Higher Education and agencies of the judicial and legislative branches with respect to the purchase of computer software and computer systems. The bill requires each state agency and institution, excluding the legislative and judicial branches, the institutions under the control of the State Board of Higher Education, the Public Employees Retirement System, the Retirement and Investment Office, the Attorney General, and any entity exempted by the Office of Management and Budget after advisement by the Information Technology Department, to obtain electronic mail, file and print server administration, data base administration, storage, application server, and hosting services through a delivery system established by the Information Technology Department in conjunction with the Office of Management and Budget. The bill authorizes the Legislative Council's Information Technology Committee to request the State Auditor to conduct an information technology compliance review which may consist of an audit of an agency's information technology management, information technology planning, compliance with information technology plans, and compliance with information technology standards and policies or an audit of statewide compliance with specific information technology standards and policies. The bill requires the State Auditor to conduct information technology compliance reviews as determined necessary by the Information Technology Committee and present results of information technology compliance reviews to the Information Technology Committee and the Information Technology Department Enterprise Architecture Committee.

The bill prohibits the Information Technology Department from exercising its powers and duties in a manner that competes or otherwise interferes with the provision of telecommunications services to private, charitable, or nonprofit entities by privately or cooperatively owned telecommunications companies. The bill prohibits the Information Technology Department from providing wide area network services to any private, charitable, or nonprofit entity except that the department may continue to provide the wide area network service the department provided

to private, charitable, and nonprofit entities receiving services from the department on January 1, 2003. The bill requires the Information Technology Department to review the information technology management of institutions under the control of the State Board of Higher Education. The bill requires the Office of Management and Budget to work with the Information Technology Department to develop statewide information technology policies, standards, and guidelines which must recognize the uniqueness of certain agencies and state which agencies are included or exempted from the policies, standards, and guidelines. The bill provides that the policies, standards, and guidelines must be reviewed by the Information Technology Advisory Committee. The provisions of the bill relating to the issues summarized here become effective on July 1, 2003. This bill was adopted by the Legislative Assembly during the special session that commenced on May 5, 2003.

House Bill No. 1043 prohibits the Information Technology Department from exercising its powers and duties in a manner that competes or otherwise interferes with the provision of telecommunications service to a private, charitable, or nonprofit entity by a privately or cooperatively owned telecommunications company. The bill prohibits the Information Technology Department from providing wide area network service to any private, charitable, or nonprofit entity except that the department may continue to provide the wide area network service the department provided to private, charitable, and nonprofit entities receiving services from the department on January 1, 2003. The bill requires the Information Technology Department to assure proper measures for security, firewalls, and Internet protocol addressing at the state's interface with other facilities. The bill changes the membership of the Information Technology Advisory Committee to include the Attorney General; the Secretary of State; the Tax Commissioner; the Chief Justice of the Supreme Court; two members of the Legislative Assembly appointed by the Legislative Council; a minimum of eight members representing state agencies, appointed by the Governor; and two members with technology management expertise representing private industry, appointed by the Governor. The bill changes the deadline for agencies to file information technology plans with the Information Technology Department from March 15 to July 15 of each even-numbered year. The bill also increases the membership of the Legislative Council's Information Technology Committee by adding two additional members of the House of Representatives and two additional members of the Senate.

House Bill No. 1019 authorizes the Information Technology Department to provide wide area network services for a period not to exceed four years to an occupant of a technology park associated with an institution of higher education or to a business located in a business incubator associated with an institution of higher education. That portion of the bill becomes effective on July 1, 2003.

Senate Bill No. 2041 creates a criminal justice information sharing board consisting of the Chief Justice of the Supreme Court, the Attorney General, and the Chief Information Officer of the state. The bill provides that the Chief Information Officer is chairman of the board. The bill requires the Information Technology Department to provide staff support to the board. The bill requires the board to set policy relating to the collection, storage, and sharing of criminal justice information and systems necessary to perform those functions and to provide operational oversight for criminal justice information-sharing activities.

House Bill No. 1252 requires the Chief Information Officer to require as a condition of employment with the Information Technology Department that individuals who have unescorted physical access to the facilities or other security sensitive areas of the department be fingerprinted. The Chief Information Officer is required to ensure that the fingerprints are submitted to the Bureau of Criminal Investigation and the Federal Bureau of Investigation for

verification of the identity of the individuals and to obtain records of criminal arrests and convictions.

House Bill No. 1444 changes the membership of the Educational Technology Council with respect to one of the representatives of school districts. The bill provides that the council include a school district representative who is appointed by the Governor, who is licensed to teach by the Education Standards and Practices Board, and who is employed by a public school district in the state as a classroom teacher.

CHILDREN'S SERVICES COORDINATING COMMITTEE

House Bill No. 1014 increases from 20 to 50 percent the amount of federal funds generated as a result of a participating entity claiming federal administrative cost reimbursements through the Department of Human Services which a regional or tribal children's services coordinating committee must distribute to the participating entity that generated the federal administrative cost reimbursement. With respect to the amount of unobligated operating fund balance that may be maintained at the end of each fiscal year by a regional or tribal children's services coordinating committee, the bill provides that the balance may not exceed \$50,000 and removes the alternative limitation of 20 percent of annual gross income. With respect to the amount of unobligated operating fund balance that may be maintained at the end of each fiscal year by the state Children's Services Coordinating Committee, the bill provides that the balance may not exceed \$50,000 and removes the alternative limitation of 20 percent of annual gross income allocated for its administrative costs and statewide grants. The provisions of the bill relating to regional or tribal children's services coordinating committees were declared to be an emergency measure and became effective upon filing of the bill with the Secretary of State on April 18, 2003. The provisions of the bill relating to the state Children's Services Coordinating Committee become effective on July 1, 2003.

DEPARTMENT OF COMMERCE

Senate Bill No. 2393 requires the North Dakota Economic Development Foundation to recommend state and federal legislation relating to strengthening the state's economy and increasing the state's population, monitor state and federal legislation and initiatives that may impact the state's economy and population, and serve as a source of expertise for developing public and private initiatives to strengthen the state's economy and increase the state's population. The bill also requires the Division of Workforce Development to actively monitor local, regional, and national public and private workforce development initiatives.

Senate Bill No. 2030 provides that if the Department of Commerce contracts with a third party for the provision of Internet web site services to provide career guidance and job opportunity services, upon the expiration of that contract the department shall request bids for the maintenance of the Internet web site and must give consideration to bids of North Dakota businesses. The bill requires the Department of Commerce to deposit in the department's operating fund any money received by the department as subscriptions, commissions, fees, or other revenue from the Internet web site. The bill appropriates up to \$130,000 per biennium to the department from the operating fund on a continuing basis for payment of expenses related to administration of the Internet web site. The bill provides that any additional amounts deposited in the operating fund during a biennium may be spent pursuant to legislative appropriations or with Budget Section approval.

House Bill No. 1334 requires the Department of Commerce to publish in aggregate form employers and employees nine-digit zip codes provided to the Workers Compensation Bureau by employers.

House Bill No. 1423 requires the Department of Commerce to designate a city as a rural growth incentive city eligible for a grant if the city applies for such a designation, raises funds in the amount of a dollar-for-dollar match for the amount requested in the grant application, and meets any additional program requirements provided by rule. The bill provides that if the department designates a city as a rural growth incentive city eligible for a grant, subject to availability of funds, the state shall make a grant to the city in an amount not to exceed \$10,000, which may be used to conduct a feasibility study for the location of a new business, including an expansion of a business with the primary place of business outside the rural growth incentive city. The bill provides that the funding source of the state grant is the North Dakota Development Fund and that total grants awarded may not exceed \$100,000 per biennium. The bill is effective through July 31, 2005.

Senate Bill No. 2312 requires the Department of Commerce to adopt rules establishing a manufactured home installation program for all manufactured homes built in accordance with the manufactured homes construction and safety standards under federal law. The bill provides that the standards do not apply to a manufactured home installed before the original effective date of the rules. The bill also provides that unless otherwise required by federal law, the standards regarding foundations do not apply to a manufactured home to be installed in a mobile home park if the mobile home park was in existence before the original effective date of the rules and if the manufactured home is installed pursuant to the manufacturer's instructions.

Senate Bill No. 2274 removes the requirement that a deputy director be appointed to administer the Department of Commerce Division of Economic Development and Finance office.

TITLE 55
State Historical Society and State Parks
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 55. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

Senate Bill No. 2249 establishes a procedure whereby if the state or a political subdivision has a property interest in real property and that property has an existing public function in addition to a historical site registration or historical significance determination, the governing body of the agency or political subdivision owning the property interest may improve, alter, modify, or destroy that property if the agency or governing body determines that action is necessary to protect public health or safety, to provide access for disabled persons, or to ensure structural integrity. The bill applies to any proceeding or determination not finalized before the effective date of the Act. The Act became effective April 24, 2003.

Senate Bill No. 2015 deletes the requirement contained in Senate Bill No. 2249 that the report of the mediator and agency or governing body and notices relating to historical significance determinations be published in the official state newspaper and provides that the report and notice of the decision be given directly to the director of the State Historical Society of North Dakota.

Senate Bill No. 2021 increases state park motor vehicle entrance fees from \$4 to \$5.

House Bill No. 1416 allows the director of the Parks and Recreation Department to allow the sale of on-sale beer and wine by operating, liquor-licensed concessionaires for 14 events per year on property under the management of the director which borders the Missouri River and which is within 15 miles of a city with a population in excess of 20,000 if the concessionaire also obtains the appropriate local and state licenses required by law.

TITLE 57

Taxation

Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 57. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to taxation may be classified in these subject areas: property taxes; sales, use, and motor vehicle excise taxes; income taxes; oil and gas taxes; telecommunications taxes; electric industry taxes; tobacco taxes; fuels taxes; and provider assessment for intermediate care facilities.

PROPERTY TAXES

House Bill No. 1426 allows a political subdivision to create a commerce authority. Commerce authority property is allowed an exemption from property taxes. The bill allows a political subdivision to levy a property tax of up to four mills for support of a commerce authority, except that a county levy for a commerce authority does not apply to any other political subdivision within the county making a levy for support of a commerce authority. (See also the description of this bill under the sales, use, and motor vehicle excise taxes heading.)

Senate Bill No. 2261 allows agreements to be entered between municipalities and with the state or private parties for long-term lease and leaseback transactions involving sewage systems, waterworks, mains, and water distribution systems. The bill provides a property tax exemption for any possessory interest in any such property leased to a municipality, the state, or a private entity.

House Bill No. 1492 provides that a person who owes delinquent taxes to any county is unqualified to be the highest bidder for property at an annual county tax sale at auction. The bill also requires the Secretary of State to prescribe a form to be used by county officials when notices of delinquent taxes owed to a county are entered in the central indexing system.

House Bill No. 1207 allows a political subdivision to establish a municipal port authority or regional port authority. Port authority property is allowed an exemption from property taxes. The bill allows a county, city, or township to levy property taxes of up to four mills for support of a port authority, but in cities supporting a port authority for which another taxing district is levying property taxes within the city for the port authority, the city levy does not apply. A township levy for port authority purposes does not apply to any city, park district, or other taxing district that already levies for support of a port authority.

House Bill No. 1058 allows relevy by a taxing district of an amount not levied by mistake in the 2001 tax year. The bill allows the mistaken amount to be levied in a single tax year or spread among one or more tax years from 2004 through 2008. The bill also allows a taxing district that determined its general fund levy for 2001 or 2002 under the preexisting provisions of this section to use the amount it intended to levy in 2000 as its base year for computing future levy limitations.

Senate Bill No. 2350 provides a property tax exemption for property leased from the state or any structure, fixture, or improvement on state land which is used primarily for athletic and educational purposes at any state institution of higher education.

Senate Bill No. 2173 allows job development authorities to use their funds for tourism promotion. The bill also allows county voters to approve any additional levy of up to one mill for tourism promotion by a job development authority.

House Bill No. 1024 allows a county to increase its general fund levy limitation from 23 mills to 134 mills by consolidating into the general fund levy separate levies for special purposes under 33 separate provisions of law. The bill allows the right of referendum by electors of the county if the consolidation is approved by resolution of the board of county commissioners. The bill provides for publication of a preliminary resolution regarding the consolidated levy and requires at least one public hearing by the board of county commissioners on the issue.

House Bill No. 1106 requires property subject to valuation for purposes of payment in lieu of taxes by certain nonprofit organizations or the Workers Compensation Bureau to be assessed in the same manner as other real property in the state is assessed for tax purposes. The bill also makes changes to improve administration of forms for the homestead tax credit, notice of increased assessment, and the deadline for entry of escaped real property on the tax list.

House Bill No. 1338 provides for refund of penalties and interest that might have applied to any property taxes or mobile home taxes that are abated.

Senate Bill No. 2390 provides that for purposes of the agricultural property tax valuation formula, the capitalization rate used in the annual computations may not be less than 9.5 percent.

Senate Bill No. 2400 provides that an easement or right of way is not extinguished upon acquisition of the property by the county through tax foreclosure if the easement or right of way was recorded before the notice of property tax delinquency that resulted in tax foreclosure by the county.

SALES, USE, AND MOTOR VEHICLE EXCISE TAXES

Senate Bill No. 2337 creates a separate and additional sales tax of 1 percent upon rentals of hotel, motel, or tourist court accommodations. Up to \$2,900,000 of revenue from the additional tax is appropriated to the Division of Tourism for expenses of out-of-state marketing relating to the Lewis and Clark Bicentennial celebration. The additional tax is effective from July 1, 2003, to June 30, 2007.

Senate Bill No. 2095 adopts the streamlined sales and use tax agreement effective January 1, 2006, as adopted by member states of the streamlined sales tax project.

Senate Bill No. 2096 makes conforming changes in the sales and use tax laws effective January 1, 2006, to be compatible with the provisions of the streamlined sales and use tax agreement. The bill requires home rule sales and use tax imposition to be identical to the state's sales and use tax base and that home rule sales taxes may not be imposed at more than one rate. The bill makes changes in sales and use tax definitions and creates a definition for certified service provider, which is a party envisioned under the streamlined sales and use tax agreement as a central collection agent for sales taxes paid to out-of-state sellers. The streamlined sales and use tax agreement does not allow multiple sales or use tax rates with the

exception of a few specific items such as natural gas and mobile homes. Because of this limitation, this bill removes farm machinery and alcoholic beverages from the sales tax law and creates special gross receipts taxes that would apply to sales of these items at a rate equal to the current sales tax rate for each.

House Bill No. 1205 provides a motor vehicle excise tax exemption for transfer of a motor vehicle without monetary consideration from a revocable living trust to the spouse, child, or sibling of the trustor.

Senate Bill No. 2102 changes the reporting provisions for sales tax imposition on rental vehicles to require reporting by rental companies of vehicles the rental company leases from another entity as well as vehicles owned by the rental company.

House Bill No. 1025 adjusts allocation of sales, use, and motor vehicle excise tax revenues through the state aid distribution fund to counties and cities to reflect population changes as determined under the 2000 census results.

House Bill No. 1328 provides a sales, use, and motor vehicle excise tax exemption for property acquired by a charitable organization to be awarded as a raffle prize if the winner of the raffle will be subject to sales, use, or motor vehicle excise taxes on receiving the property or, if the prize is a motor vehicle, the motor vehicle is registered in another state.

House Bill No. 1426 provides for establishment of commerce authorities and provides a sales and use tax exemption for property purchased by a commerce authority and made a part of the infrastructure of a commerce authority. (See also the description of this bill under the property taxes heading.)

House Bill No. 1243 provides for establishment of a North Dakota lottery and provides a sales tax exemption for receipts from the sale of lottery tickets.

Senate Bill No. 2159 eliminates a requirement of furnishing by contractors of a use tax account number and increases from 600 to 1,000 pounds the maximum weight for an all-terrain vehicle under the motor vehicle excise tax law.

INCOME TAXES

House Bill No. 1471 reduces corporate income tax rates for all income brackets, with the highest tax rate reduced from 10.5 to 7 percent of taxable income. The bill eliminates the corporate income tax deduction for federal income tax liability. The bill imposes an additional tax of 3.5 percent of taxable income for taxpayers electing to use the water's edge filing method. The bill eliminates the option to carry back a net operating loss but retains the option to carry forward a net operating loss.

Senate Bill No. 2099 allows the Tax Commissioner to permit rounding to the nearest dollar for income tax purposes. The bill creates an individual short-form return deduction for income from a new and expanding business. The bill eliminates a provision that has been declared unconstitutional providing a tax deduction for dividends paid by North Dakota corporations.

House Bill No. 1115 allows the Tax Commissioner to share information with the Bureau of the Census on taxpayer identification numbers and county of residence.

House Bill No. 1108 allows for collection and payment of withholding taxes by payroll service providers.

Senate Bill No. 2367 provides an income tax deduction for amounts received as payment for services when ordered to federal service as a member of the National Guard or reserve of the armed forces of the United States.

Senate Bill No. 2100 allows the Tax Commissioner two years from the date of amending a state income tax return to assess additional income tax attributable to changes or corrections on the amended return.

Senate Bill No. 2101 provides that to be eligible to use the state three-year income averaging method for farm income, the taxpayer must use the three-year income averaging method for federal income tax purposes. The bill requires a taxpayer filing a long-form return for any of the three base years in the averaging calculation to recalculate the tax for that year using the short-form method. The bill eliminates the possibility of a double deduction when farm income is averaged and included a net long-term capital gain from the sale or exchange of property other than land used in the farming operation.

Senate Bill No. 2098 provides that a North Dakota resident who pays income tax to another state will no longer be required to provide written proof of the tax paid to the other state and allows discretionary authority to the Tax Commissioner to request written proof of the tax paid to the other state if necessary.

Senate Bill No. 2091 repeals obsolete provisions providing for allocation of corporation income taxes which were superseded by adoption of the Uniform Division of Income Tax Act in 1965.

House Bill No. 1309 creates a corporate income tax credit of 10 percent per year for five years of direct costs of equipment to retrofit an existing facility or adapt a new facility to produce or blend diesel fuel containing at least 2 percent biodiesel fuel by volume. Cumulative credits for a taxpayer are limited to \$250,000 for all taxable years. The credit may not be claimed before the taxable year in which the facility begins production of diesel fuel containing at least 2 percent biodiesel fuel by volume.

House Bill No. 1426 provides an individual income tax deduction for interest and income from bonds issued by a commerce authority.

House Bill No. 1243 allows the Tax Commissioner to disclose to the North Dakota lottery director whether a lottery retailer applicant has or has not complied with state income tax laws.

Senate Bill No. 2159 eliminates a requirement that adjustments to taxable income are allowed only to the extent the adjustment is attributable to income allocated and apportioned to North Dakota.

House Bill No. 1019 eliminates the limitation on seed capital investment income tax credits to \$250,000 of investments in one qualified business. The bill also increases from 30 to 45 percent the amount of investment for which a taxpayer may receive a seed capital investment tax credit.

OIL AND GAS TAXES

Senate Bill No. 2311 establishes an oil and gas research council and provides for an oil and gas research fund. For the 2003-05 biennium, the first \$50,000 of the state share of oil and gas production tax and oil extraction tax must be deposited in the special fund. An additional deposit of up to \$500,000 goes to the special fund in the 2003-05 biennium if actual revenues from the state general fund share of oil and gas production tax and oil extraction tax revenues for the 2001-03 biennium exceeded \$71,064,000. After the 2003-05 biennium, 2 percent of oil and gas gross production tax and oil extraction tax revenues that would otherwise go to the state general fund are to be deposited in the oil and gas research fund, up to a maximum of \$1.3 million per biennium.

House Bill No. 1145 creates an oil and gas gross production tax exemption for shallow gas during the first 24 months of production from a well completed or recompleted in a shallow gas zone from July 1, 2003, through June 30, 2007.

House Bill No. 1210 provides an oil extraction tax exemption for production from a two-year inactive well.

Senate Bill No. 2015 increased from \$62 million to \$71 million the biennial amount of oil and gas tax revenues that may be deposited and retained in the state general fund during a biennium. Revenues exceeding this amount are to be transferred to the permanent oil tax trust fund.

TELECOMMUNICATIONS TAXES

Senate Bill No. 2192 extends civil action immunity for the emergency service communications systems to cover an automated notification system.

House Bill No. 1105 eliminates duplicate taxation of mobile telecommunications service by providing that mobile telecommunications service provided by the customer's home service provider is subject to the telecommunications gross receipts tax. The bill extends the filing deadline to claim a refund of telecommunications gross receipts tax from July 1 to December 31. The bill provides a continuing appropriation from the state general fund for payment of refunds. The bill allows the Tax Commissioner to waive all or part of a penalty under the telecommunications gross receipts tax.

ELECTRIC INDUSTRY TAXES

House Bill No. 1348 provides that a transmission line placed in service by an investor-owned utility on or after October 1, 2002, is exempt from property taxes for the first taxable year the line is placed in service and is entitled to a property tax reduction of 75 percent for the second taxable year, 50 percent for the third taxable year, and 25 percent for the fourth taxable year. After the fourth taxable year of operation, the transmission line and associated substations are exempt from property taxes and subject to a tax of \$300 per mile. For transmission lines of electric cooperatives, the tax on a transmission line of 230 kilovolts or larger initially placed in service on or after October 1, 2002, is increased from \$225 per mile to \$300 per mile. The bill provides an exemption from this tax for the first taxable year a transmission line is placed in service and provides for a reduction of the tax by 75 percent for the second taxable year, 50 percent for the third taxable year, and 25 percent for the fourth taxable year.

Senate Bill No. 2286 provides that for taxation of rural electric cooperatives the cooperative report of gross receipts must include a statement of the cost and amount of all electric energy

purchased for resale and the cost and amount of all wind energy purchased for resale. All electric energy purchased for resale must be deducted from the cooperative's gross receipts before determining the cooperative's gross receipts tax liability.

TOBACCO TAXES

House Bill No. 1269 prohibits sale of tobacco products manufactured by a manufacturer that does not comply with the requirements of the master settlement agreement with United States tobacco product manufacturers.

FUELS TAXES

Senate Bill No. 2222 provides that one cent per gallon of the motor vehicle fuels tax refund for agricultural users which is currently deposited in the highway tax distribution fund shall instead be deposited in the ethanol production incentive fund.

House Bill No. 1309 provides a 10 percent reduction in special fuels taxes for diesel fuel containing at least 2 percent biodiesel fuel by weight. For highway users, the tax is reduced from 21 cents per gallon to 19.95 cents per gallon. For nonhighway users, the tax is reduced from 2 to 1.9 percent.

PROVIDER ASSESSMENT FOR INTERMEDIATE CARE FACILITIES

Senate Bill No. 2153 imposes an assessment against each intermediate care facility for the mentally retarded in this state. The assessment is imposed each calendar quarter for each licensed bed at a rate determined by the aggregate of gross revenues of such facilities for the preceding year multiplied by 1.5 percent and divided by the number of licensed beds for the preceding year.

May 2003

TITLE 58
Townships
Summary of Bills Enacted by 2003 Legislative Assembly

There was no legislation enacted that primarily affected North Dakota Century Code Title 58. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

May 2003

TITLE 59
Trust, Uses, and Powers
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 59. Bills primarily affecting other titles may affect this title, but those bills are not summarized in this memorandum.

Senate Bill No. 2047 allows for the formation of a self-settled special needs trust and third-party special needs trust for an individual with a disability.

TITLE 60
Warehousing and Deposits
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 60. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1157 requires all physically connected portions of a grain warehouse to be licensed under Chapter 60-02, unless the entire facility is used for nonpublic purposes. The bill also provides that facilities that are physically connected to the licensed warehouse may be sold under a condominium arrangement or leased to other entities for nonpublic use.

House Bill No. 1197 creates a credit sale contract indemnity fund to be financed by an assessment of two-tenths of 1 percent upon the value of all grain sold in the state under such a contract.

Senate Bill No. 2168 provides that if an individual finds lost personal property or money and places the property or money in the custody of a law enforcement agency, the individual may assume ownership of the property or money if it remains unclaimed after two years.

Senate Bill No. 2358 provides that the value of a leaseholder's improvements may not be considered in determining a reasonable lease rate or selling price with respect to railroad rights of way.

TITLE 61

Waters

Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 61. Bills primarily affecting other titles also affect this title, and the relevant provisions of those bills are summarized in this memorandum.

The legislation relating to waters may be classified in these subject areas: water development and flood control projects; water authorities; water resource districts; and miscellaneous.

WATER DEVELOPMENT AND FLOOD CONTROL PROJECTS

Senate Bill No. 2022 appropriates \$9,385,396 from the general fund to the State Water Commission. The bill authorizes the State Water Commission to do all things reasonably necessary to construct an outlet from Devils Lake, including executing an agreement with the federal government wherein the State Water Commission agrees to hold the United States harmless and free from damages, except for damages due to the fault or negligence of the United States or its contractors. The bill also deletes the provision that the State Water Commission may utilize up to \$5.5 million from the water development trust fund, resources trust fund, or from bond proceeds to provide cost share for a flood control channel and levy project designed to provide protection from overland flooding to a city with a population in excess of 80,000 as of the 2000 federal decennial census with the amount provided not to exceed 50 percent of the city's share of the cost to construct the project and providing that bonds may be issued utilizing the procedures set forth in Chapter 61-02.

Senate Bill No. 2193 extends the authority of the State Water Commission to issue bonds for construction of an outlet from Devils Lake through June 30, 2005.

Senate Bill No. 2362 revises the statutes governing the management of floodplains. The bill updates the floodplain management chapter terminology to be consistent with the terminology used by the national flood insurance program and establishes a uniform, statewide, minimum standard requiring elevation to one foot above the base flood elevation for both residential and nonresidential structures.

WATER AUTHORITIES

Senate Bill No. 2258 establishes the Lake Agassiz Water Authority and provides that members of the board of directors of the Garrison Diversion Conservancy District are entitled to receive as compensation from the district an amount determined by the board of directors not to exceed the amount per day provided members of the Legislative Council under Section 54-35-10.

Senate Bill No. 2180 provides that members of the board of directors of the Southwest Water Authority are entitled to receive as compensation an amount determined by the board of directors not to exceed the amount per day provided members of the Legislative Council under Section 54-35-10.

Senate Bill No. 2261 provides that the Southwest Water Authority and water districts may sell or lease waterworks, mains, and water distribution systems and equipment or appliances and related property and lease back the property subject to the transaction. The bill became effective April 15, 2003.

WATER RESOURCE DISTRICTS

Senate Bill No. 2240 provides that if water resource district and water district projects do not exceed the amount provided for construction of a public improvement under Section 48-01.1-03, currently \$100,000, the project may be undertaken without being advertised and publicly bid.

House Bill No. 1148 authorizes the State Water Commission to release easements granted to the state for the construction, operation, and maintenance of dams to a political subdivision if it determines the assignment to be in the best interests of the state. The bill increases the threshold for obtaining a permit to construct or modify a dam, dike, or other device from a structure capable of diverting 12 1/2 acre-feet of water to a structure capable of diverting 25 acre-feet of water for medium- and high-hazard dams and a structure capable of diverting 50 acre-feet of water for all other structures. The bill requires that except for low-hazard dams less than 10 feet in height, the plans and specifications for dams must be completed by a professional engineer registered in this state.

Senate Bill No. 2280 increases the maximum assessment that may be levied for maintenance of federally constructed flood control projects from 50 cents per acre on agricultural lands and 50 cents for each \$500 of taxable valuation of nonagricultural property to \$1.50 per acre on agricultural lands and \$1.50 annually for each \$500 of taxable valuation of nonagricultural property.

Senate Bill No. 2277 provides that joint water resource districts created under Section 61-16.1-11 are political subdivisions of the state.

Senate Bill No. 2278 provides that all revenue from an assessment for the snagging, clearing, and maintaining of natural watercourses and the debrisment of bridges and low-water crossings must be exhausted before a subsequent assessment covering any portion of land subject to a prior assessment may be levied. The bill also requires that before an assessment may be levied for the snagging, clearing, and maintaining of natural watercourses and the debrisment of bridges and low-water crossings, a public hearing must be held and attended by a quorum of the water resource district board and a quorum of the board of county commissioners.

MISCELLANEOUS

Senate Bill No. 2419 revises the definition of person for purposes of complying with the state's water quality standards to include state and federal agencies or entities responsible for managing a state or federal facility. The bill authorizes the State Department of Health to seek injunctive relief for a threatened or continuing violation of a water quality standard, including any violations of narrative standards, if the department determines that the violation will substantially interfere with or cause or threaten to cause long-term or irreparable harm to waters of this state that the department determines has statewide or regional significance or has a substantial impact to a local community. The bill also provides that in addition to any other penalties for violation of the state's water quality standards, a person who violates an order for injunctive relief is subject to sanctions not to exceed \$25,000 per day per violation. The bill became effective March 28, 2003.

Senate Bill No. 2126 expands the definition of irrigation use to include the use of water for the maintenance of recreation areas such as athletic fields, golf courses, parks, and similar types of areas, except when the water for the facility is provided by a municipal water system and provides that water permit applicants must notify municipal or public use water facilities within a 12-mile radius of the proposed water appropriation site rather than all municipal or public use

water facilities in the county in which the proposed water appropriation site is located. The bill also provides that a person must be aggrieved by the decision to grant a water permit to appeal the granting of the permit and that requests for a hearing must be made in writing and must state with particularity how the person would be aggrieved by the decision and the issues in fact to be presented at the hearing.

May 2003

TITLE 62.1
Weapons
Summary of Bills Enacted by 2003 Legislative Assembly

There was no legislation enacted which primarily affected North Dakota Century Code Title 62.1. Bills primarily affecting other titles may affect this title, but those bills are not summarized in this memorandum.

May 2003

TITLE 63
General Provisions
Summary of Bills Enacted by 2003 Legislative Assembly

There was no legislation enacted which primarily affected North Dakota Century Code Title 63. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

May 2003

TITLE 64
Weights, Measures, and Grades
Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 64. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

Senate Bill No. 2112 raises the fees that may be charged by the Public Service Commission for testing and calibrating weighing and measuring devices.

May 2003

TITLE 65

Workforce Safety and Insurance

Summary of Bills Enacted by 2003 Legislative Assembly

This memorandum summarizes 2003 legislation primarily affecting North Dakota Century Code Title 65. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to Workforce Safety and Insurance may be classified in these subject areas: benefits and administration.

BENEFITS

House Bill No. 1060 makes several changes to the law relating to Workforce Safety and Insurance. The bill changes the formula for determining average weekly wage by considering net earnings instead of net profits; modifies the definition of "seasonal employment"; clarifies the procedure for enforcing a subpoena; increases from \$20,000 to \$50,000 the real estate adaptation allowance for catastrophically injured workers; clarifies that partial disability benefits are subject to a maximum benefit rate and that combined partial disability benefits, dependency allowance, and postinjury wage earning capacity of an injured worker may not exceed the preinjury net wage of the worker; increases the death benefit from \$197,000 to \$250,000; removes the "remarriage penalty" that applies when a surviving spouse remarries; allows for an award of a lump sum settlement to recipients of death benefits; extends the preferred work program to employees; prohibits an employer from retaliation against an employee for seeking benefits; and repeals the binding arbitration laws.

House Bill No. 1149 makes several changes to the law relating to Workforce Safety and Insurance. The bill broadens the types of action from which Workforce Safety and Insurance may choose to not participate, the previous option had been limited to health care malpractice actions; removes the June 30, 2003, sunset provision for the law providing for the single Workforce Safety and Insurance account for the state; clarifies the types of information Workforce Safety and Insurance may include on a certificate of premium payment; broadens the types of employer information that Workforce Safety and Insurance may disclose, including whether an employer's file is active, canceled, closed, pending, or delinquent and broadens the scope of whom may be provided employer file information to include state or federal agencies; addresses the liability of partners of limited liability partnerships; provides for a monthly billing cycle of claim loss assessments; extends coverage for volunteer firefighters, emergency or disaster volunteers, and community response team members to include coverage for service in the event of an enemy attack; and repeals the law regarding the employee information program on hazardous substances.

Senate Bill No. 2298 provides the details of coverage for staffing services, which include professional employer organizations' staff leasing companies, employee leasing organizations, and temporary staffing companies. The bill provides that a staffing service that provides only temporary staffing services is the employee's employer; a staffing service that provides both temporary and long-term employees is subject to the reporting requirements associated with the type of employee provided to the client company; and certain reporting requirements and account details.

ADMINISTRATION

House Bill No. 1065 changes the name of the North Dakota Workers Compensation Bureau to Workforce Safety and Insurance and the name of the North Dakota Workers Compensation Board of Directors to the Workforce Safety and Insurance Board.

House Bill No. 1150 increases from 10 to 11 the number of members of the Workforce Safety and Insurance Board of Directors, adding a member at large; provides the board member representing the North Dakota Medical Association is a voting member; decreases the term of a board member from six-year terms to four-year terms; and modifies the biennial performance evaluation of Workforce Safety and Insurance, giving the State Auditor discretion regarding the breadth of the evaluation.

Senate Bill No. 2309 places a limit of \$150 on the penalty that may be assessed by Workforce Safety and Insurance against organized townships for failure to provide required reports.

House Bill No. 1334 provides that Workforce Safety and Insurance shall collect and employers must provide zip code information of employees; provides that Workforce Safety and Insurance shall provide this information to the Department of Commerce; and updates the law relating to confidentiality of information in employer reports to Workforce Safety and Insurance.

House Bill No. 1106 provides that real property of Workforce Safety and Insurance which is subject to valuation for payments in lieu of taxes is assessed in the same manner as other real property in this state is assessed for tax purposes.