

**2007  
NORTH DAKOTA  
CENTURY CODE  
TITLE SUMMARIES**

**LEGISLATIVE COUNCIL  
STATE CAPITOL  
BISMARCK, ND 58505**

# TABLE OF CONTENTS

Title 1 - General Provisions .....	1-1
Title 2 - Aeronautics .....	2-1
Title 3 - Agency .....	3-1
Title 4 - Agriculture .....	4-1
Title 5 - Alcoholic Beverages .....	5-1
Title 6 - Banks and Banking .....	6-1
Title 7 - Building and Loan Associations .....	7-1
Title 8 - Carriage .....	8-1
Title 9 - Contracts and Obligations.....	9-1
Title 10 - Corporations .....	10-1
Title 11 - Counties.....	11-1
Title 12 - Corrections, Parole, and Probation.....	12-1
Title 12.1 - Criminal Code .....	12.1-1
Title 13 - Debtor and Creditor Relationships.....	13-1
Title 14 - Domestic Relations and Persons.....	14-1
Title 15 - Education .....	15-1
Title 15.1 - Education .....	15.1-1
Title 16.1-1 - Elections .....	16.1-1
Title 17 - Energy .....	17-1
Title 18 - Fires .....	18-1
Title 19 - Food, Drugs, Oils, and Compounds.....	19-1
Title 20.1 - Game, Fish, Predators, and Boating.....	20.1-1
Title 21 - Governmental Finance.....	21-1
Title 22 - Guaranty, Indemnity, and Suretyship.....	22-1
Title 23 - Health and Safety .....	23-1
Title 24 - Highways, Bridges, and Ferries .....	24-1
Title 25 - Mentally Ill and Retarded, Tubercular, Blind, and Deaf .....	25-1
Title 26.1 - Insurance .....	26.1-1
Title 27 - Judicial Branch of Government.....	27-1
Title 28 - Judicial Procedure, Civil.....	28-1
Title 29 - Judicial Procedure, Criminal .....	29-1
Title 30 - Judicial Procedure, Probate.....	30-1
Title 30.1 - Uniform Probate Code .....	30.1-1
Title 31 - Judicial Proof .....	31-1
Title 32 - Judicial Remedies.....	32-1
Title 33 - County Justice Court.....	33-1

Title 34 - Labor and Employment.....	34-1
Title 35 - Liens .....	35-1
Title 36 - Livestock.....	36-1
Title 37 - Military.....	37-1
Title 38 - Mining and Gas and Oil Production .....	38-1
Title 39 - Motor Vehicles .....	39-1
Title 40 - Municipal Government.....	40-1
Title 41 - Uniform Commercial Code.....	41-1
Title 42 - Nuisances .....	42-1
Title 43 - Occupations and Professions .....	43-1
Title 44 - Offices and Officers .....	44-1
Title 45 - Partnerships.....	45-1
Title 46 - Printing Laws .....	46-1
Title 47 - Property .....	47-1
Title 48 - Public Buildings.....	48-1
Title 49 - Public Utilities.....	49-1
Title 50 - Public Welfare.....	50-1
Title 51 - Sales and Exchanges .....	51-1
Title 52 - Social Security .....	52-1
Title 53 - Sports and Amusements.....	53-1
Title 54 - State Government.....	54-1
Title 55 - State Historical Society and State Parks .....	55-1
Title 57 - Taxation .....	57-1
Title 58 - Townships.....	58-1
Title 59 - Trusts, Uses, and Powers.....	59-1
Title 60 - Warehousing and Deposits.....	60-1
Title 61 - Waters .....	61-1
Title 62.1 - Weapons.....	62.1-1
Title 63 - General Provisions .....	63-1
Title 64 - Weights, Measures, and Grades .....	64-1
Title 65 - Workforce Safety and Insurance.....	65-1
Index to House and Senate Bills	

**TITLE 1**  
**General Provisions**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

There was no 2007 legislation enacted which primarily affected North Dakota Century Code Title 1. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

**TITLE 2**  
**Aeronautics**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 2. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

**Senate Bill No. 2214** excludes economic development from the public purposes that may be used for eminent domain as applied to airports.

**TITLE 3**  
**Agency**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 3. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

**House Bill No. 1034** updates cross-references to the newly adopted Uniform Trust Code.

## **TITLE 4 Agriculture Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 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.

### **APPROPRIATIONS**

**Senate Bill No. 2009** appropriates \$5,702,953 to the Agriculture Commissioner to defray the expenses of the Department of Agriculture and provides that agriculture in the classroom grant recipients are nonvoting members of the Agriculture in the Classroom Council.

**House Bill No. 1009** appropriates \$1,167,150 to the State Fair Association and directs the association to provide a report on the state of grandstand construction, including the development of a business plan and fundraising efforts.

**House Bill No. 1020** appropriates \$186,059,266 to the North Dakota State University Extension Service, the Northern Crops Institute, the Upper Great Plains Transportation Institute, the Main Research Station and branch research centers, and the Agronomy Seed Farm. The bill also provides that a license to grow industrial hemp is not conditioned on or subject to review or approval by the United States Drug Enforcement Agency.

**Senate Bill No. 2179** appropriates \$79,500 from the environment and rangeland protection fund and \$79,500 from the oilseed fund to the Agriculture Commissioner for the purpose of mitigating crop damage by blackbirds.

### **SEEDS**

**House Bill No. 1022** appropriates \$6,169,502 to the State Seed Department for the purpose of defraying the expenses of the department.

**Senate Bill No. 2128** requires the State Seed Commissioner to accept seed samples that are claimed to be new varieties and determine their eligibility for certification. The bill also prohibits the sale or transfer of protected varieties between farmers for the purpose of planting, without approval from the variety owner or developer.

**House Bill No. 1124** defines "certified seed" as being randomly inspected and meeting the rules of the State Seed Department at the time of inspection and defines "selection" as a subgroup of a variety. The bill also provides that the State Seed Commission, the State Seed Commissioner, and the State Seed Department make no representations and no warranties regarding merchantability, fitness for a particular purpose, or absence of disease with respect to any seed or crop that they have inspected, analyzed, or verified.

### **CROPS**

**Senate Bill No. 2117** prohibits buyers from engaging in unfair acts or practices in connection with a potato production contract or with a purchase of potatoes and provides that a person who engages in such acts or practices is liable to the producer for all damages.

**Senate Bill No. 2099** provides that a license is necessary for the processing, as well as the growing, of hemp for commercial purposes.

**House Bill No. 1490** authorizes North Dakota State University and any licensed hemp grower to import and resell industrial hemp seed that is certified as having no more than three-tenths of 1 percent tetrahydrocannabinol.

**House Bill No. 1164** increases the number of producer and industry representatives on the Northern Crops Council.

**House Bill No. 1185** authorizes the Dry Pea and Lentil Council to enter a reciprocal agreement with a governmental entity in another state or province for the return of assessments on dry peas and lentils not grown within the jurisdiction of that entity.

### **PESTICIDES**

**Senate Bill No. 2228** requires a person seeking reimbursement for property damage resulting from the application of a pesticide to notify the pesticide applicator by certified mail within 28 days and to allow inspection of the damage by the applicator and up to four representatives.

**Senate Bill No. 2095** redefines a commercial applicator as one who engages in the business of pesticide application to the land of another, by air, ground, hand, or any other equipment, for compensation. The bill also provides a definition of a ready-to-use pesticide.

**House Bill No. 1085** makes the pesticide container disposal program permanent law.

### **STATE FORESTER**

**House Bill No. 1066** increases from \$500,000 to \$1 million the amount by which the State Forester reserve account must be exceeded before state nursery seedlings must be offered at the cost of production.

**Senate Bill No. 2028** removes the requirement that the State Forester receive Budget Section approval before using money in the State Forester reserve account.

### **MISCELLANEOUS**

**Senate Bill No. 2288** provides that the Office of Renewable Energy and Energy Efficiency may not distribute any payment that would create a negative balance in the ethanol production incentive fund and that if money in the fund during any quarter are insufficient to meet all incentive requests, the payments must be prorated and may not be carried forward.

**House Bill No. 1382** prohibits a board of county commissioners from placing a question regarding extension work on a ballot unless the required petitions have been filed at least 60 days before the election.

**Senate Bill No. 2107** provides that the Agriculture Commissioner may deposit in the commissioner's operating fund a portion of the fees collected for the inspection and certification of plants and plant products. The amount authorized for deposit is the equivalent of that assessed the commissioner by the United States Department of Agriculture for federal plant export certificates.

**Senate Bill No. 2105** updates the edition of the standards manual to which various sampling and testing conducted by the Agriculture Commissioner must conform.

## **TITLE 5**

### **Alcoholic Beverages**

#### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 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. 2204** provides immunity from prosecution for individuals under 21 years of age who have consumed alcoholic beverages, if the individual contacts law enforcement or emergency medical services and reports that another individual under 21 years of age was in need of medical assistance due to alcohol consumption. In addition, the bill requires the individual to remain on the scene or be the person in need of medical assistance and cooperate with medical assistance and law enforcement to be eligible for immunity. The bill limits the number of individuals that may be immune for any one occurrence to five individuals. The bill provides factors in mitigation for individuals 21 years of age or older who contacted law enforcement or emergency medical personnel to report that the underage individual was in need of medical assistance. The bill requires a court to consider in mitigation in the same circumstances a retail licensee who dispenses alcoholic beverages to an individual under 21 years of age and a person who is convicted of contributing to the delinquency of a minor by providing alcoholic beverages to an individual under 21 years of age.

**House Bill No. 1082** prohibits the sale and use of alcohol without liquid devices. The bill defines an alcohol without liquid device as an apparatus designed to vaporize an alcoholic beverage to produce a vapor that may be inhaled by an individual. Violation of this prohibition is a Class B misdemeanor.

**Senate Bill No. 2098** clarifies that closing time on Thanksgiving and for special Sunday permits may be 2:00 a.m.

**House Bill No. 1346** allows a retail alcoholic beverage licensee whose gross sales of food are at least 30 percent of the gross sales of alcoholic beverages to allow, without an additional license, an individual purchasing a bottle of wine in conjunction with the purchase of a meal to remove the opened bottle from the licensed premises if the licensee recorks and seals the bottle and places a receipt of sale with the bottle.

**Senate Bill No. 2329** requires an individual under 21 years of age who is convicted of entering a licensed premises where alcoholic beverages are sold or displayed to be sentenced by the court to alcohol and drug education.

**Senate Bill No. 2135** provides technical corrections and clarifications to the wholesale alcohol tax statutes and changes or creates definitions for the terms "bottle or can," "in bulk," and "21 years of age." In particular, the bill increases the amount of wine for personal consumption a person can purchase by direct sale from an out-of-state seller of wine from 2.38 gallons or less of wine to 7.3 gallons or less of wine and repeals the provision that allowed for a person in this state to import into this state wine for personal use without any state tax, fees, or other charges if the state from which the wine is imported allows a reciprocal privilege. The bill allows a domestic winery to sell or direct ship its wine to a person inside or outside of the state in a manner consistent with the laws of the place of sale or delivery and requires reports from the domestic winery to the Tax Commissioner. The bill clarifies provisions relating to when a lender acquires an inventory of beer or liquor by reason of foreclosure. The bill allows the Tax Commissioner to revoke the license of a supplier and to restore the license after a revocation.

June 2007

## **TITLE 6**

### **Banks and Banking**

### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code (NDCC) 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 in these subject areas: programs; financial institutions and credit unions; and miscellaneous.

#### **PROGRAMS**

**House Bill No. 1014** provides that a biodiesel production facility or ethanol production facility that receives interest rate buydown from the biofuels partnership in assisting community expansion fund is not eligible to receive interest buydown from the partnership in assisting community expansion fund for the same project during the same biennium.

**Senate Bill No. 2180** amends the biodiesel partnership in assisting community expansion fund program, renaming the fund the biofuel partnership in assisting community expansion fund; temporarily expanding the program to include assistance to biofuel retailers and grain handling facilities; expanding the program to include assistance to ethanol production facilities and livestock operations; removing the program references to community involvement in program applications; providing the fund is not subject to the turnback provisions of NDCC Section 54-44.1-11; and authorizing the Bank of North Dakota to transfer unobligated money between the biodiesel partnership in assisting community expansion fund and the partnership in assisting community expansion fund.

**House Bill No. 1135** allows the Bank of North Dakota to transfer up to \$1 million per biennium of unobligated funds from the revolving loan fund for beginning farmers to the value-added agriculture equity loan program for the purpose of interest buydown on loans made for investment in feedlots or dairy operations.

**House Bill No. 1341** provides the types of parties that are eligible to use the services of the North Dakota agricultural mediation services and increases the per diem of Credit Review Board members from \$65 to \$75 per day.

**House Bill No. 1342** removes the duties of the Credit Review Board relating to the adult farm management program and the farm management delivery system.

**House Bill No. 1100** modifies the definition of farmer as the term applies to the Family Farm Survival Act; increases the maximum loan amount under the financial assistance for family farmers program; and removes the interest rate provisions from the agriculture partnership in assisting community expansion program.

**House Bill No. 1061** removes the July 31, 2007, expiration date from the Bank of North Dakota's agricultural real estate loan guarantee program and increases from \$5 million to \$8 million the maximum amount the Bank may have in outstanding loan guarantees under the program.

**Senate Bill No. 2104** expands the Bank of North Dakota's livestock loan guarantee program to include dairy farming and removes the requirement that the Bank adopt rules that the program require payment of an administrative fee and that equity requirements may not exceed 15 percent.

**Senate Bill No. 2120** modifies the definition of beginning entrepreneur for purposes of the beginning entrepreneur loan guarantee program and increases the amount the Bank of North Dakota may guarantee in loans outstanding under the program from \$4 million to \$8 million.

**House Bill No. 1088** allows the Bank of North Dakota to invest up to \$200,000 per biennium in North Dakota-based venture capital entities that make investments in companies located outside the state.

**House Bill No. 1091** allows the Bank of North Dakota to charge an administrative fee to participants of the North Dakota higher education savings plan; provides such administrative fees are appropriated to the Bank on a continuing basis; and provides an individual income tax deduction for contributions to the North Dakota higher education savings plan.

### **FINANCIAL INSTITUTIONS AND CREDIT UNIONS**

**Senate Bill No. 2295** directs the Credit Union Board to adopt rules applicable to state credit union conversion to a building and loan association; provides that effective August 1, 2009, a state credit union may convert to a building and loan association; and removes references to the repealed NDCC Title 7 relating to building and loan associations.

**House Bill No. 1062** increases the per diem of members of the State Banking Board and of members of the Credit Union Board from \$50 to \$100; expands the parties with which the commissioner of the Department of Financial Institutions may enter sharing agreements; lengthens the period within which financial institutions must be examined from 30 months to 36 months; and authorizes the commissioner to make determinations regarding interstate branches of state-chartered banks.

**Senate Bill No. 2176** modifies the laws relating to financial institutions and credit unions, providing local governments may not adopt ordinances regulating financial institutions and credit unions; clarifying the State Banking Board may grant state banks the same powers as national banks; and clarifying the Credit Union Board may grant state credit unions the same powers as federal credit unions.

**House Bill No. 1253** increases the fees financial institutions may charge governmental agencies for the purpose of conducting record searches.

**Senate Bill No. 2182** allows a bank to adjust the bank's operations if there is an epidemic or other emergency that would jeopardize the bank's customers, employees, assets, or business.

**House Bill No. 1301** allows a bank to solicit and receive deposits in the nature of a custodial account for the purpose of health savings or similar health care cost funding accounts.

**Senate Bill No. 2300** provides a bank may not establish or maintain a branch in this state on the premises of or within one mile of the premises of an affiliate that engages in commercial activities.

**House Bill No. 1369** expands the class of people that may use the words "bank," "banker," "banking," "trust," or "trust company" as it relates to business activities to include bona fide financial institution trade associations and their affiliates and allows the commissioner of the Department of Financial Institutions to grant exemptions from the limitations on the use of these terms.

### **MISCELLANEOUS**

**House Bill No. 1096** provides for confidentiality of certain commercial or financial information held by the Public Finance Authority and extends the Public Finance Authority program limits established by the 59th Legislative Assembly through the 2007-09 biennium.

**Senate Bill No. 2151** increases the collection fees or costs for issuing a check without sufficient funds or for issuing a check without an account from \$25 to \$30.

**Senate Bill No. 2156**, for purposes of the Public Finance Authority law, expands the definitions of the terms "political subdivision" to include a qualified borrower under the federal clean renewable energy law and "municipal security" to include a clean renewable energy bond issued under federal law.

**Senate Bill No. 2214** clarifies the Bank of North Dakota's power to acquire property through the exercise of eminent domain is subject to the limitations of NDCC Chapter 32-15, the state's eminent domain law.

**Senate Bill No. 2192** provides legal recognition of electronic records and electronic signatures and provides definitions for terms related to this recognition.

**TITLE 7**  
**Building and Loan Associations**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 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.

**Senate Bill No. 2295** repeals Title 7 effective August 1, 2009. This bill also directs the Department of Financial Institutions to study, during the 2007-08 interim, the state's building and loan association law and mutual savings banks law and how these laws relate to the conversions of state credit unions to building and loan associations and mutual savings banks.

**TITLE 8**  
**Carriage**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 8. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

**House Bill No. 1012** allows this state's commission members on the Midwest Interstate Passenger Rail Compact Commission to negotiate a lower amount of dues. If a lower amount of dues is not negotiated, the Department of Transportation may withhold the dues payment.

**TITLE 9**  
**Contracts and Obligations**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 9. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

**House Bill No. 1035**, as part of the bill adopting the Revised Article 1 of the Uniform Commercial Code, updates statutory cross-references.

## **TITLE 10**

### **Corporations**

#### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code (NDCC) Title 10. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

**House Bill No. 1034**, as part of the bill adopting the Uniform Trust Code, updates statutory cross-references.

**House Bill No. 1035**, as part of the bill adopting the Revised Article 1 of the Uniform Commercial Code, updates statutory cross-references.

**House Bill No. 1241** provides for extensive grammatical changes, technical clarifications, and substantive changes to the laws relating to business corporations, limited liability companies, nonprofit corporations, and real estate investment trusts.

**House Bill No. 1340** creates the North Dakota Publicly Traded Corporations Act as a new chapter to the corporations title.

**House Bill No. 1492** provides the civil penalty for violation of the law relating to acquisition of farmland or ranchland by a nonprofit entity may not exceed \$100,000.

**Senate Bill No. 2153** creates the North Dakota Registered Agents Act and updates the laws relating to registered agents under the corporate or limited liability farming law, cooperative association laws, business corporation laws, limited liability company laws, nonprofit corporations laws, and real estate investment trusts laws.

**Senate Bill No. 2214** clarifies an electric cooperative's power to acquire property through the exercise of eminent domain is subject to the limitations of NDCC Chapter 32-15, the state's eminent domain law.

**Senate Bill No. 2268** updates a statutory cross-reference relating to viatical settlement contract law.

**TITLE 11**  
**Counties**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code (NDCC) Title 11. 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 counties may be classified in these subject areas: powers and duties of counties and county officers.

**POWERS AND DUTIES OF COUNTIES**

**Senate Bill No. 2271** requires a board of county commissioners and a county zoning commission to state the grounds upon which any request for a zoning amendment or variance is approved or disapproved and requires a board of county commissioners to state the grounds upon which any request for approval of plats is approved or disapproved. The bill also requires those entities to include within their records written findings upon which those decisions are based.

**Senate Bill No. 2278** provides that any county zoning regulation that pertains to a concentrated animal feeding operation which is adopted after July 31, 2007, is not effective until filed with the State Department of Health for inclusion in a central repository for concentrated animal feeding operations regulations. The bill also provides that any county zoning regulation that pertains to a concentrated animal feeding operation which was adopted before August 1, 2007, may not be enforced until the regulation is filed in the central repository for concentrated animal feeding operations regulations.

**House Bill No. 1420** revises the limitations on zoning regulations that may be enacted by a board of county commissioners with respect to farming, ranching, and concentrated animal feeding operations. The bill establishes standards for the determination of the number of animal units and authorizes the adoption of setback distances for concentrated animal feeding operations and related agricultural operations. The bill authorizes a board of county commissioners to establish, around areas zoned for residential, recreational, or nonagricultural commercial uses, low-density agricultural production districts in which setback distances are greater than those in other districts. The bill provides that the limitations on zoning regulations with respect to farming, ranching, and concentrated animal feeding operations do not include any power relating to the role of the board of county commissioners in the establishment, repair, or maintenance of highways or roads.

**House Bill No. 1029** limits the authority of a county to transfer home rule sales tax revenues to or for the primary benefit of a school district. The bill was declared to be an emergency measure and become effective upon its filing with the Secretary of State on April 19, 2007.

**Senate Bill No. 2214** provides that a home rule county or a port authority that intends to exercise the power of eminent domain may exercise that power subject to the provisions of NDCC Chapter 32-15.

**Senate Bill No. 2149** authorizes a county job development authority or a joint job development authority to take equity positions in, provide loans to, or use other innovative financing mechanisms to provide capital for new or expanding businesses in the state or for businesses relocating to the state.

**Senate Bill No. 2380** provides that county sales and use taxes, farm machinery gross receipts taxes, and alcoholic beverages gross receipts taxes must be administered by the Tax Commissioner in accordance with the streamlined sales and use tax agreement.

**Senate Bill No. 2205** requires that the departmental budget submitted by a county social service board in 2007 must identify the reduction in county funding derived from the transfer of administration of the child support enforcement program from the county social service board to the Department of Human Services on July 1, 2007. The bill provides that the amount reported must equal the full amount budgeted for administration of the child support enforcement program in the budget submitted by the county social service board and approved by the board of county commissioners in 2006. The bill requires that the budget include a recommendation of how the reduction in county funding responsibility will be passed on to the property taxpayers of the county.

**House Bill No. 1033** revises statutory provisions relating to bidding and public improvement contracts and allows state and local governments to use the construction management delivery method.

### **COUNTY OFFICERS**

**House Bill No. 1381** changes the date that the term of office of a county officer begins from the first Monday in January to January 1 following the officer's election, unless otherwise specifically provided by law. The bill changes the date that the term of office of a county auditor begins from the first Monday in April to April 1 and changes the date that the term of office of a county treasurer begins from the first Monday in May to May 1.

**House Bill No. 1157** requires a board of county commissioners to provide a uniform allowance for sheriffs and sheriffs' deputies of at least \$350 per individual per year. The bill also authorizes a sheriff to expend funds for uniforms as the sheriff deems necessary and provides that a sheriff is not limited to an annual amount that may be expended for each uniform or for each individual.

**House Bill No. 1071** removes an obsolete reference relating to the appointment of a county director of tax equalization by September 1, 1978. The bill also authorizes the state supervisor of assessments to revise the minimum requirements for attaining a certificate issued by the supervisor for assessing property.

**House Bill No. 1045** provides that a county recorder may record a statement of succession in interest to minerals deemed abandoned without the auditor's certificate of transfer.

**Senate Bill No. 2093** authorizes the governing body of a political subdivision to establish and administer a purchasing card system for use by its officers, employees, representatives, or agents. The bill also removes the requirement that provides that before an allowance for mileage or travel expenses may be paid for a county officer or employee, an itemized statement must be filed with the county auditor if the expense was incurred by the use of a purchasing card.

## **TITLE 12**

### **Corrections, Parole, and Probation**

#### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code (NDCC) 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: Department of Corrections and Rehabilitation; criminal history background checks; and miscellaneous.

#### **DEPARTMENT OF CORRECTIONS AND REHABILITATION**

**House Bill No. 1015** provides that if the balance in the probationer violation transportation fund exceeds \$75,000 on the June 30 of the immediately preceding fiscal year, the Department of Corrections and Rehabilitation is required to waive the county's portion of the transfer of probationer fee.

**House Bill No. 1077** authorizes the warden to institute and maintain a uniform system of fines and restitution for violations of department rules and for instances in which an offender causes personal injury or property damage. The bill authorizes the warden to deduct the fine or restitution from any funds credited an offender's Penitentiary account or Bank of North Dakota two-signature account. The bill directs the warden to pay an inmate all funds in the inmate's account, less the inmate's outstanding obligations to the Penitentiary, when the inmate is released on parole or discharged from the Penitentiary.

**House Bill No. 1116** provides that the Department of Corrections and Rehabilitation may authorize a correctional facility to regularly confine inmates for more than one year if the correctional facility meets certain criteria established by the department. The bill also sets forth certain prohibited acts with respect to an individual detained in a correctional facility, including the manufacture, delivery, or possession of controlled substances, alcohol, and weapons. The bill describes the information that must be contained in correctional facility inspection reports. The bill repeals NDCC Section 12-44.1-27 relating to corrective action and enforcement for correctional facilities.

**Senate Bill No. 2029** provides that except for an offense for which the law requires mandatory incarceration, electronic home detention or global positioning system monitoring may be used for certain adult and juvenile offenders. The bill authorizes, subject to the availability of funding, the court, or with the approval of the court, the Department of Corrections and Rehabilitation or a correctional facility, to implement an electronic home detention and global positioning system monitoring program.

#### **CRIMINAL HISTORY BACKGROUND CHECKS**

**House Bill No. 1490** requires the Agriculture Commissioner to request a criminal history record check for each applicant for a license to grow or process industrial hemp.

**Senate Bill No. 2037** requires the Chief Information Officer of the Information Technology Department to request a criminal history record check for certain individuals.

**Senate Bill No. 2260** provides for criminal history record information. The bill adds a number of agencies and occupations for which a criminal history background check may be required, including the State Board of Nursing, the State Board of Pharmacy, the State Real Estate Commission, the North Dakota Board of Social Work Examiners, the North Dakota University System, the Office of Management and Budget, the Department of Corrections and Rehabilitation, a city or county that operates a correctional facility for certain applicants and employees, the governing board of a public or nonpublic

school for certain employees, the Racing Commission for license applicants, and the district court for a petition to change a name.

### MISCELLANEOUS

**House Bill No. 1092** changes references, for purposes of proceedings under the Uniform Juvenile Court Act, from "juvenile supervisor" to "director of juvenile court."

**House Bill No. 1482** sets forth a procedure for the admission of chronically or terminally ill inmates to health care facilities. The bill provides that the administrator of the facility to which the offender is to be admitted must be provided with certain information, including any available risk assessment information regarding the offender's likelihood of reoffending.

**House Bill No. 1504** provides that a tribal police officer of a federally recognized Indian tribe in this state who meets the requirements of the Peace Officer Standards and Training Board is eligible for a peace officer license or part-time peace officer license. The bill provides that a tribal officer who is a member of a police force of a tribal government and who is licensed by the board may exercise the powers of a peace officer of this state within the exterior boundaries of the reservation or off the reservation in accordance with the terms and conditions of the special deputy appointment, the employment agreement, or the agreement between the state or political subdivision and the tribe.

**Senate Bill No. 2025** provides that a correctional facility may authorize an employee to provide medication to an inmate of a correctional facility if the employee is licensed or registered under NDCC Title 43 and is providing the medication within the scope of practice of the profession for which the individual is licensed or registered or the correctional facility staff member has successfully completed medication administration training that has been preapproved by the State Board of Nursing.

**Senate Bill No. 2357** provides that with respect to the housing of inmates, an adult held under a delinquency proceeding may be held with juveniles and a juvenile transferred or waived to adult court on a felony criminal offense may be housed with adults in a jail or regional correctional facility.

**TITLE 12.1**  
**Criminal Code**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code (NDCC) Title 12.1. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

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

**NEW OFFENSES OR CHANGES IN PENALTIES**

**House Bill No. 1040** provides that disorderly conduct at a funeral is a Class B misdemeanor. The bill provides that a second or subsequent violation is a Class A misdemeanor. The bill became effective on January 25, 2007.

**House Bill No. 1357** changes the penalty for the possession of any motion picture, photograph, or other visual representation that includes sexual conduct by a minor from a Class A misdemeanor to a Class C felony.

**House Bill No. 1472** provides that except for purposes of voting in a school building used as a public polling place or for attending an open meeting in a school building, it is a Class A misdemeanor for certain sexual offenders to enter upon public or nonpublic elementary, middle, or high school property. The bill also provides that an individual who commits the crime of indecent exposure or an adult who commits the crime of corruption or solicitation of a minor or indecent exposure within 50 feet of school property is guilty of a Class B felony.

**House Bill No. 1500** provides that criminal trespass includes the unauthorized presence on any building, occupied structure, or storage structure.

**Senate Bill No. 2138** provides that an individual is guilty of a Class B misdemeanor if the individual lives openly and notoriously with an individual of the opposite sex as a married couple without being married to the other individual and falsely represents the couple's status as being married to each other. The bill also repeals NDCC Section 12.1-20-10 which relates to unlawful cohabitation.

**Senate Bill No. 2185** expands the definition of "serious bodily injury" to include bodily injury that impedes air flow or blood flow to the brain or lungs.

**Senate Bill No. 2248** expands the crime of luring minors by computer to include luring by other electronic means. The bill also provides that an adult convicted of a Class B or Class C felony under this section must serve a term of imprisonment of at least one year unless the individual did not take a substantial step toward meeting with the minor. The bill authorizes the Attorney General to issue an administrative subpoena compelling an Internet service provider or cellular phone company to provide subscriber information to a law enforcement agency investigating a possible violation of NDCC Section 12.1-20-05.1.

**Senate Bill No. 2352** makes it a Class B misdemeanor for a person to tattoo, brand, subdermal implant, scarify, or pierce an individual under 18 years of age unless the act takes place in the presence of and with the written consent of the individual's parent or legal guardian. The bill also provides that it is a Class B misdemeanor for a person to sell, trade, or otherwise provide materials or kits for tattooing, self-tattooing, branding, self-branding, scarifying, self-scarifying, subdermal implantation, self-subdermal implantation, body piercing, or self-body piercing to an individual who is under 18 years of age.

**Senate Bill No. 2415** makes it a Class A misdemeanor for a person to require that an individual have inserted into that individual's body a microchip containing a radio frequency identification device.

## **SEX OFFENSES AND OFFENDERS**

**House Bill No. 1216** relates to penalties for various sexual offenses. The bill provides that a person who engages in sexual contact with another is guilty of an offense if that person knows that the victim is unaware that sexual contact is being committed on the victim. The bill also provides that for any conviction of a Class AA felony under the offense of gross sexual imposition, the court must impose a minimum sentence of 20 years' imprisonment with probation supervision to follow incarceration. The bill also provides that the crime of continuous sexual abuse of a child is a Class AA felony if the actor was at least 22 years of age at the time of the offense. Otherwise the offense is a Class A felony. The bill also sets forth the conditions of probation for defendants who have been convicted of sexual offenses.

**Senate Bill No. 2103** provides that when an acute forensic medical examination is performed on an alleged victim of criminal sexual conduct, the costs incurred by the health care facility or health care professional for performing the examination may not be charged to the alleged victim. The bill directs the Attorney General to reimburse the health care facility or health care professional for the reasonable costs incurred in performing an acute forensic medical examination.

**Senate Bill No. 2256** amends Section 1 of House Bill No. 1472 which relates to sex offenders on school property. The bill provides that the prohibitions on sex offenders on school property do not apply if the offender is a parent or guardian of a student attending the school and the offender, with the written permission of the school board, is attending a conference at the school; the offender is a parent, guardian, or relative of a student attending or participating in a function at the school and the offender has requested advance permission from the school board allowing the offender's presence at the school function; the offender is a student at the school with the written permission of the school board; or the school board allows the offender on school property under other circumstances on a case-by-case basis.

**Senate Bill No. 2259** relates to the registration requirements for sex offenders. The bill expands the definition of "sexual offender" to include juvenile delinquent adjudications of certain sexual offenses under state law as well as offenses from another court in the United States, a tribal court, or the court of another country. The bill changes from 10 to 3 the number of days within which an offender must register upon entry into a county in which the offender plans to reside or is temporarily domiciled. The bill also increases from 10 to 15 the number of years after sentencing which an individual is required to comply with registration requirements. The bill imposes a 25-year registration requirement upon an offender who is assigned a moderate risk by the Attorney General.

## **SENTENCING**

**House Bill No. 1015** increases from \$40 to \$45 the minimum monthly probation supervision fee that the court may impose.

**House Bill No. 1075** provides that the total amount of credit a defendant is entitled to for time spent in custody must be stated in the criminal judgment.

**Senate Bill No. 2029** provides that "official detention" of an offender may include home detention, which is defined as the confinement of an individual adjudicated, convicted, or charged with an offense to the individual's place of residence under the terms and conditions established by the court or the Department of Corrections and Rehabilitation.

**Senate Bill No. 2241** provides that except for offenders who commit certain misdemeanor sexual offenses, the court may waive for offenders who commit misdemeanor or infraction offenses the condition of probation that the offender may not possess a firearm, destructive device, or other dangerous weapon. The bill requires the court to make a specific finding on the record before imposition of a sentence or probation that there is good cause to waive the condition.

## MISCELLANEOUS

**House Bill No. 1122** clarifies that legal counsel for indigent individuals is to be provided at public expense. The bill also provides that the Commission on Legal Counsel for Indigents is to determine the amount of costs and expenses that an indigent individual may be required to reimburse as a condition of probation.

**House Bill No. 1219** authorizes the Information Technology Department to establish a statewide automated victim information and notification system, which, if established, would be administered by the Department of Corrections and Rehabilitation. The system would permit a victim to be notified by telephone, mail, or e-mail of the status of an offender.

**House Bill No. 1319** provides that, as it relates to the use of deadly force, the duty to retreat or avoid force does not apply to an individual within or from that individual's dwelling, place of work, or from an occupied motor home or travel trailer. The bill also provides that an individual is presumed to have held a reasonable fear of imminent peril of death or serious bodily injury if the individual against whom the deadly force was used was in the process of unlawfully and forcibly entering a dwelling, place of work, or occupied motor home or travel trailer and the individual who uses deadly force knew or had reason to believe that the unlawful and forcible entry or act was occurring or had occurred. The bill provides that the presumption may be rebutted by proof beyond a reasonable doubt that the individual who used the deadly force did not have a reasonable fear of imminent peril of death or serious bodily injury to that individual or another. The bill also provides for immunity from civil liability and the awarding of reasonable attorney's fees and court costs for justifiable use of force.

**House Bill No. 1358** provides that it is a noncriminal offense for a minor to present a purported proof of age which is false or fraudulent for the purpose of attempting to purchase or possess tobacco products. The bill also prohibits the sale of tobacco products through a vending machine unless the vending machine is located in an area in which minors are not permitted access or the vending machine requires a salesperson to control the dispensation of the products contained in the machine.

**House Bill No. 1466** makes it a Class C felony for a person, other than the pregnant female upon whom the abortion was performed, to perform an abortion. The bill provides that it is an affirmative defense that the abortion was necessary in professional judgment and was intended to prevent the death of the pregnant female; that the abortion was to terminate a pregnancy that resulted from a sexual offense; and that the individual was acting within the scope of that individual's regulated profession and under the direction of or at the direction of a physician. The bill contains an effective date that provides that the Act becomes effective on the date the Legislative Council approves by motion the recommendation of the Attorney General to the Legislative Council that it is reasonably probable that the Act would be upheld as constitutional.

**Senate Bill No. 2030** amends Section 1 of Senate Bill No. 2262. As amended, the bill provides that an individual who is enrolled in an elementary, middle, or high school in the state or who is enrolled in an institution of higher education in the state is immune from prosecution for the crime of attempt or conspiracy if the individual voluntarily renounces the individual's criminal intent; the offense would have resulted in harm to an employee of a school or a student enrolled in an elementary, middle, or high school or institution of higher education or damage to the school building or school property; and the renunciation is made to a law enforcement officer or to a school administrator before any harm or damage occurs.

**Senate Bill No. 2129** provides that in a prosecution for the willful failure to pay child support, a copy of a record certified under NDCC Section 14-08.1-08 is admissible as prima facie evidence of the contents of the record.

**Senate Bill No. 2262** provides that an individual under the age of 21 is immune from prosecution for the crime of attempt or conspiracy if the individual voluntarily renounces the individual's criminal intent; the individual is a student enrolled in an elementary, middle, or high school in the state; the offense would have resulted in harm to an employee of a school or a student enrolled in an elementary, middle, or

high school or damage to the school building or school property; and the renunciation is made to a law enforcement officer or to a school administrator before any harm or damage occurs.

## **TITLE 13**

### **Debtor and Creditor Relationships**

### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 13. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in this memorandum.

**House Bill No. 1117** provides changes to the Consumer Finance Act, including providing what constitutes a fraudulent practice, requiring a person to be licensed under the Consumer Finance Act before taking a fee in advance of funding a loan or lease, and authorizing the Department of Financial Institutions to issue orders and apply for injunctions; provides changes to the law regulating money brokers, including clarifying relevant definitions and clarifying the scope of the law covers persons engaging in money brokering with borrowers who reside in North Dakota; and provides changes to the law regulating collection agencies, including clarifying the scope of the law covers persons engaging in debt collection with debtors who reside in North Dakota and clarifying who is not subject to regulation under the collection agencies law.

**House Bill No. 1328** provides that for purposes of late payment charges on accounts receivable, a creditor may assign an account receivable and an assignee of an account receivable has the same right to charge a late payment charge as did the original creditor.

**Senate Bill No. 2210** addresses late payment charges on accounts receivable for medical services, providing the period of time after which an account becomes delinquent, distinguishing between the amount of charges a hospital may charge and a medical services provider that is not a hospital, and also limits the amount a medical services provider may charge as a finance charge, credit service charge, or interest rate.

## **TITLE 14**

### **Domestic Relations and Persons**

### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 14. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

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

#### **DOMESTIC VIOLENCE**

**House Bill No. 1238** defines predominant aggressor as an individual who is the most significant but not necessarily the first aggressor. The bill provides that when investigating a domestic violence situation, the law enforcement officer is required to evaluate certain factors to determine which party was the predominant aggressor.

#### **DISCRIMINATION**

**Senate Bill No. 2074** authorizes the Department of Labor, for purposes of investigating a housing discrimination complaint, to require the attendance of a witness and the production of certain documents and information. The bill also provides that if a person refuses to obey a subpoena, the district court may issue an order for that person to appear and give testimony or produce documentary evidence.

**Senate Bill No. 2075** amends the definition of discriminatory practice to provide that the term includes unequal treatment as a result of participation in lawful activity off the employer's premises during nonworking hours which is not in direct conflict with the essential business-related interests of the employer.

**Senate Bill No. 2076** directs the Department of Labor to emphasize conciliation to resolve human rights violation complaints. The bill also authorizes the Department of Labor, for purposes of investigating a human rights violation complaint, to require the attendance of a witness and the production of certain documents and information. The bill also provides that if a person refuses to obey a subpoena, the district court may issue an order for that person to appear and give testimony or produce documentary evidence.

#### **CHILD SUPPORT**

**Senate Bill No. 2129** provides that when a child support obligee is required to provide health insurance coverage for a child and the obligee's employer has been identified, the public authority may use the national medical support notice to enforce the provision of health insurance coverage for the child. The bill also authorizes the public authority to impose on an obligee an annual fee for child support services. The bill provides that unless a party to a child support order objects, the public authority or clerk of court may change the payee of a child support obligation for the current month or a future month upon request of a guardian or other person who has legal custody of the child for whom the child support is being paid.

**Senate Bill No. 2205** changes the definition of "child support agency" to mean the Department of Human Services. The bill also repeals the definitions of "public authority" and "system implementation date" as those terms relate to child support matters.

**Senate Bill No. 2336** relates to liability of obligors and obligees for health insurance coverage for children. The bill provides that the responsibility for a child's health insurance coverage or other medical support must be established according to rules adopted by the Department of Human Services. The bill provides that the rules must be based on the income of the obligated parent and include a limitation on

the obligation of a low-income parent to provide medical support unless health insurance coverage is available to the parent at no or nominal cost. The bill also provides that the child support guidelines may include a separate amount of child support for the child's health insurance coverage, reimbursement for public health coverage, and other medical support.

## **MARRIAGE AND DIVORCE**

**House Bill No. 1414** clarifies that in a postjudgment hearing, a court may redistribute property and debts, not just property, if a party has failed to disclose property and debts as required by court rule or by the terms of a court order.

## **PARENT AND CHILD**

**House Bill No. 1122** removes the reference to the appointment of legal representation with respect to a proceeding to terminate parental rights and refers to the legal counsel as the person representing the party.

**House Bill No. 1162** provides that if a minor has an emergency medical condition, consent for an examination, care, or treatment of the minor is implied if reasonable steps to contact the minor's parent or guardian are unsuccessful. The bill also provides that this law does not authorize a minor to withhold consent to emergency examination, care, or treatment.

**Senate Bill No. 2064** provides that when a motion for a change of custody is filed during the time a parent is in active duty service, the court may not enter an order modifying or amending a previous judgment or issue a new order that changes the child's placement that existed on the date the parent was called to active duty service. The bill provides that the court may issue a temporary custody order that is in the best interest of the child.

**Senate Bill No. 2204** provides that if an individual is convicted of encouraging or contributing to the deprivation or delinquency of a minor, the court is required to consider as mitigating factors, after consuming the alcohol, whether the underage individual was in need of medical assistance as a result of consuming alcohol and, within 12 hours after the underage individual consumed the alcohol, the defendant contacted law enforcement or emergency medical personnel to report that the individual was in need of medical assistance as a result of consuming alcohol.

**Senate Bill No. 2366** sets forth a procedure for an adoptive parent to obtain a validation of a foreign decree of adoption. The bill provides, upon the provision of certain required documents and information, the court is directed to issue a decree of validation of foreign adoption. The bill also provides that upon submission of the decree of validation of foreign adoption, the clerk of court is to apply to the State Department of Health for the issuance of a birth record in the new name of the adopted individual.

## **TITLE 15**

### **Education**

### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 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.

#### **APPROPRIATIONS AND FINANCE**

**House Bill No. 1003** appropriates \$468,449,624 from the general fund and \$633,169,325 in total funds to the North Dakota University System and authorizes the issuance of \$22,714,000 in tax-exempt bonds. The bill directs that the State Board of Higher Education's statutorily required performance and accountability report include an executive summary regarding education excellence, economic development, student affordability, and financial operations and limits tuition increases to 5 percent during each of the next two academic years.

**House Bill No. 1395** appropriates \$700,000 from the oil and gas trust fund to the State Board of Higher Education for the purpose of providing grant assistance payments to tribally controlled community colleges.

**House Bill No. 1487** provides that the interest rate on student loans that are not federally coinsured may be fixed or variable.

#### **INSTITUTIONS**

**House Bill No. 1030** extends by two years the effective date of a 2001 amendment providing that funds in institution accounts are appropriated on a continuing basis to the State Board of Higher Education.

**Senate Bill No. 2379** requires the establishment of a Nursing Education Consortium for the purpose of addressing common concerns in nursing education and obstacles to meeting the state's current and future nursing needs. The bill also appropriates \$200,000 to the University of North Dakota for a simulated laboratory program.

**Senate Bill No. 2344** allows an institution of higher education to prepare and provide meals, snacks, and food services for persons or programs not affiliated with the institution and allows the institution to provide catering services for an event if the event is organized predominantly for persons affiliated with or enrolled in the institution or if the event is held under the auspices of the institution.

**Senate Bill No. 2288** encourages the State Board of Higher Education to establish or name one or more biomass centers at one or more institutions of higher education to conduct research and provide education and technical assistance to entities that produce, transport, harvest, and convert biomass.

**House Bill No. 1461** directs the State Board of Higher Education to manage and regulate information technology planning and services for institutions under its control through the development of policies, implementation of a process for project management and oversight, integration with the board's strategic planning process, participation in certain networking projects, and the development of an annual report.

#### **STUDENTS**

**House Bill No. 1235** clarifies that North Dakota high school students who graduate from a high school in a bordering state under North Dakota's cross-border attendance provisions are eligible to participate in the North Dakota scholars program.

**House Bill No. 1018** directs the Department of Commerce to design and implement a matching grant program to fund innovative science, technology, and innovation programs for students in kindergarten through grade 12. The bill also directs the Department of Commerce to assist applicants with preaward reviews and postaward monitoring as requested by the Centers of Excellence Commission.

#### **STATE BOARD FOR CAREER AND TECHNICAL EDUCATION**

**House Bill No. 1019** appropriates \$21,735,093 to the State Board for Career and Technical Education and directs that the board use \$1.2 million of that amount to develop at least two new area career and technology centers and use \$800,000 to increase cost-share incentives for cooperative delivery efforts. The bill also creates a grant program to support entrepreneurship education at the elementary level.

**House Bill No. 1078** allows individuals employed by the State Board for Career and Technical Education to become members of the Public Employees Retirement System.

#### **BOARD OF UNIVERSITY AND SCHOOL LANDS**

**House Bill No. 1332** reduces by two years the period of time before which property sold by the state on a deferred payment contract may be acquired by a county under foreclosure proceedings.

**House Bill No. 1171** provides that fees paid by the Board of University and School Lands to counties in which the state retains original grant lands may not exceed the amount of property taxes that had been payable if the lands were subject to taxation.

#### **TEACHERS' FUND FOR RETIREMENT**

**Senate Bill No. 2046** creates a new tier of Teachers' Fund for Retirement members and provides that beginning July 1, 2008, Tier 2 members will be eligible for retirement upon having five years of service credit and reaching the age of 65 or having five years of service credit and a combination of years of service credit and years of age that equals or exceeds 90. The bill also requires that employers of retired members pay employer contributions on the salary of retired members.

#### **CENTER FOR DISTANCE EDUCATION**

**Senate Bill No. 2127** changes the name of the Division of Independent Study to the Center for Distance Education.

## **TITLE 15.1**

### **Education**

### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code (NDCC) Title 15.1. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

#### **APPROPRIATIONS AND FINANCE**

**Senate Bill No. 2013** provides a general fund appropriation of \$710,426,726 to the Superintendent of Public Instruction to defray the expenses of the Department of Public Instruction, \$3,979,712 to defray the expenses of the State Library, \$5,388,502 to defray the expenses of the School for the Deaf, and \$2,916,200 to defray the expenses of the North Dakota Vision Services - School for the Blind. The bill also provides that the 2005-07 contingency payments must be used to fund English language learners, regional education associations, increases in the minimum percentage of state aid payable to a district in the 2007-09 biennium, transportation grants, the enhancement of civic education, the Snow Country Prison Exhibit, consultants for the Commission on Education Improvement, national board certification scholarships, adult education, automated external defibrillators, educational television program licensing, the state school aid computer system, the teacher licensure application system, reimbursement of school districts for accounting errors, educational leadership grants, and the Atlantik-Brucke teacher exchange program. Any remaining amounts are to be distributed as per student payments.

**Senate Bill No. 2200** establishes a new manner of funding elementary and secondary education and sets the per student payment rate at \$3,250 during the first year of the biennium and at \$3,325 during the second year of the biennium. The bill also provides for the continuation of the North Dakota Commission on Education Improvement and directs that the commission pursue issues of educational adequacy as well as other matters that could result in the improvement of education in this state.

**Senate Bill No. 2388** appropriates \$25,748 for reimbursement of the Glenburn School District due to an accounting error.

**House Bill No. 1178** provides that money which was set aside to pay bonuses for reorganizations effective on July 1, 2005, could also be spent to pay bonuses for reorganizations that failed to meet the previous size or student number criteria.

**Senate Bill No. 2028** removes the requirement that the Superintendent of Public Instruction annually report the transfer of duplicative money to the state tuition fund.

#### **SCHOOL DISTRICTS AND SCHOOL BOARDS**

**House Bill No. 1033** extends the provisions governing public improvement contracts to school district construction projects.

**House Bill No. 1248** establishes criteria for the State Board of Public School Education to use in reviewing school construction projects that were appealed to the board following denial by the Superintendent of Public Instruction.

**House Bill No. 1261** provides that school district name changes must include the phrase "school district" or "public school district" and may include no more than two additional words.

**House Bill No. 1383** requires that all school board candidate filings be in the possession of the school district business manager by the 60th day before the election regardless of whether the school board election is held in conjunction with a statewide election.

**House Bill No. 1305** provides that a school district reorganization plan may provide for school board membership that differs from the current statutory requirements pertaining to rural representation on the board.

**House Bill No. 1281** provides that tuition payments may not exceed 150 percent of the state average cost of education per student.

**House Bill No. 1046** requires that a school district notify the Superintendent of Public Instruction if a tuition bill is not paid within 60 days of its due date.

**House Bill No. 1199** removes the requirement that a student's school district of residence approve an application for open enrollment.

**Senate Bill No. 2344** authorizes a school district to prepare and provide meals, snacks, or other food services for events that are hosted by or under the auspices of the school district or which involve child care centers participating in the federal child and adult care food program.

**Senate Bill No. 2313** directs the Superintendent of Public Instruction to purchase automated external defibrillators and distribute them to school districts for placement in schools or at the site of school-related activities.

**Senate Bill No. 2314** provides that eminent domain proceedings undertaken by the board of a school district must be conducted in accordance with NDCC Chapter 32-15.

### **REGIONAL EDUCATION ASSOCIATIONS**

**Senate Bill No. 2030** creates a separate chapter for regional education associations, formerly known as educational associations governed by joint powers agreements. The bill allows state aid payable as a result of a district's participation in a regional education association to be forwarded directly to the association and the bill allows the association to receive and expend money for administrative functions, student services, and other lawful purposes. The bill also authorizes regional education associations to provide special education and related services.

### **COURSES**

**Senate Bill No. 2309** provides that beginning with the 2008-09 school year, no student may graduate from high school unless the student demonstrates successful completion of four units of English language arts, two units of mathematics, two units of science, three units of social studies, one unit of physical education, and one unit of a foreign or native language, fine arts, or career and technical education.

**Senate Bill No. 2354** provides that one-half unit of physical education must be offered during each school year and that once every four years, the unit must be a concept-based fitness class that includes instruction in the assessment, improvement, and maintenance of personal fitness.

**House Bill No. 1172** requires elementary and middle schools to provide instruction in North Dakota studies and requires high schools to provide one-half unit of North Dakota studies at least once every two years.

**House Bill No. 1076** removes the requirement that the Youth Correctional Center provide two units of the same foreign language and two units of fine arts.

**House Bill No. 1491** provides that beginning July 1, 2009, the Superintendent of Public Instruction annually must approve any person that provides elementary or high school courses electronically to a student, school, or school district in this state.

**Senate Bill No. 2127** changes statutory references from the Division of Independent Study to the Center for Distance Education.

## TEACHERS

**House Bill No. 1177** authorizes the board of a school district to increase the salary for certain teaching positions beyond the terms of any negotiated agreement in order to attract a suitable and highly qualified individual.

**Senate Bill No. 2287** authorizes the Education Standards and Practices Board to take action against an individual who teaches in violation of NDCC Chapter 15.1-18 and against an administrator who allows an individual to teach in violation of Chapter 15.1-18.

**House Bill No. 1270** defines a day for professional development activities as being six hours in length if conducted within a single day and as being two 4-hour periods if conducted over two days.

**Senate Bill No. 2057** directs the Education Standards and Practices Board to pay to each individual who received national board certification before July 1, 2007, \$1,000 for each year the individual has maintained and continues to maintain the certification, provided the individual continues to be employed by a school district in this state. The payment is limited to \$4,000.

## TRANSPORTATION

**House Bill No. 1081** clarifies that in order to transport students or other passengers in a schoolbus or other school vehicle, the individual must hold the appropriate class of North Dakota driver's license, together with any special endorsement otherwise required by law.

**House Bill No. 1334** provides that if an individual transports students or other passengers in a school vehicle that seats 10 to 15 passengers, but for which a commercial driver's license is not required, the individual must hold a North Dakota driver's license, meet the physical and medical requirements established for commercial vehicle drivers, complete annual training required by the Superintendent of Public Instruction, and meet the age requirements established by the board of the employing school district.

## MISCELLANEOUS

**House Bill No. 1169** removes the statutory requirement that the Superintendent of Public Instruction hold a North Dakota teaching license.

**Senate Bill No. 2108** clarifies the definition of a student with a disability and defines a child with a noncategorical delay as a child between the ages of 3 and 10 who exhibits a developmental profile in which cognitive, fine motor, vision, hearing, communication, preacademic, socialization, or adaptive skill acquisitions are significantly below that of same-age peers. The bill also provides that a school district may determine that a child with a noncategorical delay is a student with a disability and provide appropriate services to the child.

**House Bill No. 1021** provides for the appointment of a Statewide Longitudinal Data System Committee and directs that the committee provide a report to the interim Education Committee, among others, on the statewide longitudinal data system.

**House Bill No. 1092** changes a statutory reference from the juvenile supervisor to the director of juvenile court.

**Senate Bill No. 2260** authorizes the governing board of a school or the Superintendent of Public Instruction for a nonpublic school to request and receive criminal history record checks for designated employees.

**Senate Bill No. 2130** provides that a child placed in a psychiatric residential treatment facility, for purposes other than education, is not eligible for open enrollment.

## **TITLE 16.1**

### **Elections**

### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 16.1. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

The legislation relating to elections may be classified in these subject areas: election administration; campaign contributions; candidates; and corrupt election practices.

#### **ELECTION ADMINISTRATION**

**House Bill No. 1380** removes provisions allowing the Secretary of State to reduce election deadlines for special elections relating to certain referendums and changes the date of those special elections from 30 to 50 days after the call for the special election to 90 days after the call for the special election. The bill provides that signature forms filed with initiated or referred measures must be originals and provides that an initiative or referendum petition must be on a form prescribed by the Secretary of State.

**Senate Bill No. 2237** provides that an individual who has obtained a protection order or who is protected by a disorderly conduct restraining order must be listed in the central voter file with a "secure active" designation. The bill requires the state court administrator or the Bureau of Criminal Investigation, upon the request of the Secretary of State, to make available to the Secretary of State the name of each individual who has obtained such an order. The bill provides that a "secure active" designation is an exempt record and any individual's record designated as "secure active" is not available to any candidate, political party, or political committee for any purpose. The bill removes the requirement that a county auditor change the designation of an individual who makes a request for removal of the individual's record from the central voter file to "inactive."

**House Bill No. 1378** authorizes a board of county commissioners to use vote centers that contain all the precincts in a county so that any qualified elector of the county may choose to cast a ballot in that polling location. The bill provides that a qualified elector may vote early at an early voting precinct, by absentee ballot, at the polling location in the elector's precinct or at a county vote center.

**Senate Bill No. 2238** changes the deadline for appointments of election officers from 21 days before the election to 40 days before the election. The bill authorizes a county auditor, with the approval of the board of county commissioners, to appoint as many poll clerks as are necessary for the proper administration of a polling place. The bill requires that the poll clerks be appointed on their knowledge of election matters, attention to detail, and on any necessary technical knowledge. The bill provides that when the members of an election board challenge the right of an individual to vote, the board must require the individual to complete and sign a voter's affidavit.

**Senate Bill No. 2233** removes various references to the use of electronic voting systems by townships. The bill also reduces the number of pollbooks, facsimile diagrams of voting devices, and informational posters that a county is required to supply for each polling place.

**Senate Bill No. 2235** requires that at the conclusion of a mandatory test of an electronic voting system, the programming for each electronic voting device be sealed within the device with a unique numbered seal that must be verified by the election inspector before the opening of the polls. The bill also requires the Secretary of State to order a random testing of the voting system programming, after each election, for one precinct in each county.

**Senate Bill No. 2232** changes from 20 days before an election to 40 days before an election the deadline for making absentee ballots available for distribution. The bill requires that an application for an absentee ballot must include the applicant's birth date and year and motor vehicle operator's license or nondriver identification number. The bill allows a uniformed service member or a family member stationed at any location other than the individual's voting residential address to apply for an absentee ballot. The bill requires an election canvassing board to verify that the signatures on the absentee ballot application and the voter's affidavit were signed by the same individual before allowing the ballot to be tallied. The bill requires a county auditor, with the consent of the board of county commissioners, to designate a public facility as an early voting precinct.

**Senate Bill No. 2230** expands the allowed use of mail ballot elections from primary elections to all elections if authorized by a board of county commissioners. The bill allows the scanning of mail ballots to begin at any time after the polls open but prohibits the totaling of results until after the closing of the polls.

**Senate Bill No. 2239** requires that a candidate's certificate of nomination by convention must include the nominated individual's telephone number. The bill clarifies that any individual may receive assistance in marking the individual's ballot if the individual requires assistance. The bill removes a requirement that an inspector or election judge inform each voter at a primary election that if the voter splits the party ballot or votes for more than one party, the voter's party ballot will be rejected.

**Senate Bill No. 2231** includes on the affidavit for an individual desiring to qualify to vote for presidential electors, a requirement that the applicant include the applicant's telephone number.

**House Bill No. 1374** provides that election recounts must be conducted according to guidelines established by the Secretary of State and according to statute. The bill requires that a county auditor, during a recount, review ballots to determine if the ballots were properly initialed and that the initials found on the ballots are verified as those of the precinct board members. The bill provides that a member of a recount board may not have anything of value bet or wagered on the result of the election, be a candidate for the office being recounted, or be the spouse or a family member of a candidate involved in the recount. The bill provides that a contestant or contestee who desires to have ballots preserved must give notice to the county recorder that an election contest is pending in a court.

**House Bill No. 1377** changes the responsibility for the handling of ballots after the election from the clerk of the district court to the county recorder and changes the composition of the county canvassing board to include the county recorder and remove the clerk of the district court.

## **CAMPAIGN CONTRIBUTIONS**

**House Bill No. 1375** revises the definition of a "public office" for the purpose of the campaign contribution law to include any office to which an individual may be elected by a vote of the people under the laws of the state. The bill authorizes a state political party to establish a separate and segregated account for the management of a state nominating convention and requires a political party to file a postconvention and a year-end contribution and expenditure statement for the account. The bill expands the campaign finance reporting requirements for judicial candidates to require that a candidate's statement include the gross total of all contributions received of \$200 or less and the cash on hand in the candidate's account at the start and close of the reporting period. The bill requires a candidate for a city office to file the candidate's contribution statement with the city auditor rather than the county auditor.

**House Bill No. 1499** provides that a political committee includes an organization governed by Section 527 of the Internal Revenue Code, which solicits or receives contributions or makes expenditures for political purposes, and requires such an organization to file campaign contribution and expenditure statements. The bill expands the definition of a "political purpose" for the purposes of campaign finance reporting and for the purposes of corrupt election practices to provide that within the 30 days before a primary election and the 60 days before a special or general election, the term includes any activity in which a candidate's name, office, district, or any term meaning the same as "incumbent" or

"challenger" is used in support of or in opposition to the election or nomination of a candidate to public office.

### **CANDIDATES**

**Senate Bill No. 2234** provides that a candidate's certificate of endorsement or candidate petition must include the candidate's telephone number. The bill changes the affidavit that must be submitted with a certificate of endorsement or petition to include a statement certifying that the candidate is qualified to serve if elected, and to specify how the candidate desires to have the candidate's name on the ballot. The bill also removes the requirement that sample ballots for publication purposes be arranged using the rotation of the ballot in the precinct in the county which cast the highest total vote for Governor at the last general election at which the office of Governor was filled. The bill reduces the number of poll lists that clerks of primary elections must keep from two to one. The bill repeals a provision relating to presidential preference contests.

**House Bill No. 1379** requires a candidate for a nonfederal office who is filing a demand to identify and preserve any write-in vote to file the demand with the county recorder.

### **CORRUPT ELECTION PRACTICES**

**House Bill No. 1243** provides that it is a Class A misdemeanor if a person, with reckless disregard for the truth, publishes a political advertisement or news release that is untrue, deceptive, or misleading.

**House Bill No. 1376** prohibits a person from approaching an individual attempting to enter a polling place, who is in a polling place, or who is leaving a polling place for the purpose of gathering signatures for any reason.

**TITLE 17**  
**Energy**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 17. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

**House Bill No. 1462** provides that the Legislative Assembly adopts the 25x'25 initiative with a goal that not later than January 1, 2025, the agricultural, forestry, and working land of the United States should provide from renewable resources not less than 25 percent of the total energy consumed in the United States and continue to produce safe, abundant, and affordable food, feed, and fiber.

**TITLE 18**  
**Fires**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 18. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

**House Bill No. 1067** allows the State Forester to transfer, in addition to lend and sell, fire protection equipment to rural fire department and rural fire protection districts.

**Senate Bill No. 2183** creates the firefighters death benefit fund, administered by the Insurance Commissioner, from which \$10,000 is paid to the estate of a firefighter who dies from an injury sustained while responding to, during, or within 48 hours after a fire emergency or training activity.

**House Bill No. 1296** allows disbursements from the insurance tax distribution fund by the State Health Officer to emergency medical service operations.

## **TITLE 19**

### **Food, Drugs, Oils, and Compounds**

#### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 19. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to food, drugs, oils, and compounds may be classified in these subject areas: pesticides; drugs; and fuel.

#### **PESTICIDES**

**Senate Bill No. 2323** removes provisions to take effect for the registration of pesticides for use in this state and maintains present procedures. Generally, the 1999 increase in registration fees from \$300 to \$350 for each product was to expire June 30, 2007.

#### **DRUGS**

**Senate Bill No. 2319** replaces the term methamphetamine precursor drug with scheduled listed chemical products. The bill prohibits a person from delivering more than a daily amount of three and six-tenths grams of a scheduled listed chemical product without regard to the number of over-the-counter sales. The bill requires scheduled listed chemical products to be placed behind the counter or in a locked cabinet where purchasers do not have direct access to the products and removes the option of video surveillance or display of one package. In addition, the bill requires the person making the sale to deliver the product directly to the custody of the purchaser, to determine if the name entered by the purchaser on the log corresponds with the name on the identification provided by the purchaser, to enter the name of the product and the quantity sold on the list, and to provide the purchaser with a notice that making false statements or misrepresentations may subject the purchaser to criminal penalties. The bill provides immunity for a person that releases information to law enforcement unless the release constitutes gross negligence. The bill removes the defense that a person would reasonably presume the purchaser to be 25 years of age or older to sell a scheduled listed chemical product to a person under 18 years of age. The bill includes pediatric products in the prohibitions. The bill prohibits making a false statement in the written list of sale and prohibits purchasing more than nine grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base in scheduled listed chemical products in a 30-day period. The bill removes the sunset clause on the previous law.

**Senate Bill No. 2317** adds salvia divinorum as a Schedule I controlled substance.

**House Bill No. 1055** adds four substances as Schedule I hallucinogenic substances, two substances as Schedule II opiates, one substance as a Schedule II depressant, one as a Schedule III depressant, one as a Schedule III narcotic, and removes one as a Schedule II hallucinogenic substance and one as a narcotic, and makes a number of changes to substances that are Schedule III anabolic steroids. The bill removes sibutramine and includes zopiclone as a Schedule IV depressant and adds one Schedule IV stimulant. The bill includes depressants as a Schedule V substance. The bill requires a person registered to manufacture or distribute a controlled substance to immediately report the theft or significant loss of a controlled substance. The bill prohibits a Schedule II controlled substance from being filled more than six months after the date the prescription was written.

**Senate Bill No. 2134** provides for a prescription drug monitoring program to monitor the prescribing and dispensing of all controlled substances.

**House Bill No. 1206** allows a court to sentence a person in violation of controlled substance or drug paraphernalia laws to undergo a drug addiction evaluation. If ordered, the evaluation is to be given to the court before imposing punishment for a violation.

**House Bill No. 1224** removes the expungement of records for a first-time violation involving a small amount of marijuana and provides that the record is sealed. Once sealed, the bill requires that the record may not be opened even by order of the court.

**Senate Bill No. 2098** provides the Superintendent of Public Instruction, rather than the State Department of Health, is to provide to an interim legislative committee the results of a survey on the state's young people regarding drug usage.

**House Bill No. 1015** expands the drug abuse assessment and treatment pilot program in Walsh, Pembina, or Grand Forks Counties to the entire state.

**Senate Bill No. 2260** allows the Board of Pharmacy to require an applicant for registration to submit to a statewide and nationwide criminal history check and to pay the costs of the check.

## **FUEL**

**Senate Bill No. 2159** requires a retailer of alcohol-blended gasoline to display on the dispensing unit the Ethanol Promotion and Information Council label or logo.

**House Bill No. 1121** defines alternative fuel and biodiesel fuel. The bill requires a dealer to include the name and main components of an alternative fuel or alternative fuel blend on the dispensing unit and price advertising. The bill allows a producer of alternative fuels or alternative fuel blends to provide a retailer with a label promoting the benefits of the alternative fuel, if the label meets the previous requirements.

## **TITLE 20.1**

### **Game, Fish, Predators, and Boating**

### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code (NDCC) 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 these subject areas: licenses and permits; Game and Fish Department; birds; Governor's proclamations; and miscellaneous.

#### **LICENSES AND PERMITS**

**House Bill No. 1195** provides that beginning on January 1, 2008, any application that is printed in paper form for a resident or nonresident fishing, hunting, or fur-bearer certificate must be printed in a manner so that only the last four digits of the applicant's Social Security number are recorded on the application, and the first five digits of the applicant's Social Security number are recorded on the application. The bill directs the Department of Human Services to seek a federal exemption authorizing the state to require the recording of the last four digits of the applicant's Social Security number on applications in paper form for a resident or nonresident fishing, hunting, or fur-bearer certificate. The bill becomes effective on the date the department certifies that the United States Department of Health and Human Services has granted the exemption.

**Senate Bill No. 2293** provides that upon presentation of valid leave papers and a valid North Dakota operator's license, a resident who is on leave and is on active duty as a member of the United States Armed Forces or the United States Merchant Marine may hunt small game, fish, or trap during the open season without a license.

**Senate Bill No. 2147** makes permanent the provision that the 14-day and two 7-day hunting period restrictions applicable to nonresident waterfowl hunters do not apply to nonresidents hunting in Richland and Sargent Counties during the early September Canada goose season.

**Senate Bill No. 2059** eliminates the \$5 fee or a permit to propagate, domesticate, or possess protected wildlife. However, the permit is still required by the State Board of Animal Health.

#### **GAME AND FISH DEPARTMENT**

**Senate Bill No. 2017** appropriates \$57,861,111 to the Game and Fish Department. The bill provides that it is the intent of the Legislative Assembly that \$100,000 contained in the grants line item be used to carry out a grant program to encourage hunting by youth by providing grants to local communities to fund shooting ranges and other related activities to encourage hunting by youth. The bill also requires the Game and Fish Department to study the recruitment and retention of hunters in North Dakota and identify programs to recruit and retain hunters in this state and report to the Budget Section by December 31, 2008.

**House Bill No. 1515** authorizes the Game and Fish Department to develop and make available, as part of the broader support for establishment cost-share provided through the Industrial Commission, a special demonstration component of the private land open to sportsmen program to support perennial grass stand establishment of participating acres in return for public access to hunting and adherence to conservation best practices, including postseason harvest, minimum stubble height, and nonannual harvest. The bill provides that the demonstration project may include an evaluation component to assess the effects and compatibility of perennial biomass harvest with the habitat and public access objective of the private land open to sportsmen program.

**Senate Bill No. 2096** authorizes the director, deputy director, chief game wardens, or district game wardens to enforce state laws and rules on sovereign lands.

**Senate Bill No. 2214** provides that the exercise of eminent domain power by the director of the Game and Fish Department must be done in accordance with NDCC Chapter 32-15.

### **BIRDS**

**House Bill No. 1311** deletes the age and date requirement for the youth pheasant hunting season and requires the Game and Fish Department to study hunter safety education requirements and hunter safety for all ages of hunters and report its findings and recommendations to the Legislative Council by July 1, 2008.

**Senate Bill No. 2250** authorizes the Governor to allow individuals who are first-time youth spring wild turkey hunters to receive one spring turkey license valid for the regular spring wild turkey season by proclamation. The bill provides that to be eligible to receive a spring wild turkey license, an individual must be 15 years of age or younger on the opening day of the spring wild turkey season and have never received a wild turkey license.

**Senate Bill No. 2251** authorizes the Governor to make available one spring wild turkey license to the National Wild Turkey Federation for a raffle or auction with the net proceeds of the raffle or auction used for wild turkey management and related projects in North Dakota.

### **GOVERNOR'S PROCLAMATIONS**

**House Bill No. 1289** authorizes the Governor to make available one bighorn sheep hunting license to the Minnesota-Wisconsin Chapter for the Foundation for North American Wild Sheep to raffle or auction with proceeds remitted to the department.

**Senate Bill No. 2201** authorizes the Governor to make one antelope license available to the North Dakota Hunter Educators Association for a raffle. The bill provides that proceeds of the raffle must be used for sponsoring mentored hunts for youth who may otherwise not have the means to go afield to hunt; establish a statewide network of shooting locations for youth to become familiar with archery equipment and firearms under the supervision of a certified volunteer hunter education instructor; and to purchase advertising and news media during hunting season concerning firearms safety and hunting ethics and the promotion of safe and responsible hunting.

**House Bill No. 1402** authorizes the Governor to make available annually to an organization with the principal purpose of granting hunting and fishing adventures for children who have been diagnosed with a terminal illness up to eight deer licenses and four antelope licenses.

### **MISCELLANEOUS**

**House Bill No. 1184** provides that notwithstanding any other provision of law, an individual may have a handgun in that individual's possession while hunting during any lawful archery hunting season.

**House Bill No. 1396** replaces the term "alveolar air" with the term "end expiratory breath" for purposes of hunting or boating under the influence.

**Senate Bill No. 2058** authorizes the Game and Fish Department to convey land to adjacent landowners around Golden Lake.

**TITLE 21**  
**Governmental Finance**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 21. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

**House Bill No. 1137** repeals the chapter of law providing for the natural resources development bond issue.

**Senate Bill No. 2049** authorizes the investment director to sign and execute contracts relating to funds under the management of the State Investment Board.

**TITLE 22**  
**Guaranty, Indemnity, and Suretyship**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

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

## **TITLE 23**

### **Health and Safety**

### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code (NDCC) 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 these subject areas: regulation; emergency medical services; contagious diseases; basic care and nursing facilities; housing authorities; health care directives; State Health Officer, Health Council, and State Department of Health; and miscellaneous.

#### **REGULATION**

**House Bill No. 1154** directs the State Department of Health to regulate tanning facilities, including limitations on minors' use of tanning facilities.

**House Bill No. 1004** provides the fees established by the State Department of Health for tanning facility permits must be based on the cost of conducting routine and complaint inspections, enforcement actions, and preparing and sending license renewals and provides the department must accept local enforcement of the tanning facility regulations if the local requirements meet or exceed the state requirements.

**House Bill No. 1505** directs the State Department of Health to regulate facilities and individuals providing tattooing, body piercing, branding, subdermal implants, or scarification.

**Senate Bill No. 2352** amends House Bill No. 1505 to provide the State Department of Health must provide for an injury reporting protocol as part of the department's regulation of facilities and individuals providing tattooing, body piercing, branding, subdermal implants, or scarification.

**House Bill No. 1094** updates the law relating to underground storage tank regulations, clarifying that rules adopted by the Health Council may not be more stringent than applicable requirements of the federal Resource Conservation and Recovery Act and the federal Energy Policy Act of 2005 in effect on August 1, 2007.

**House Bill No. 1109** establishes the registration fees and registration protocol for petroleum tanks, distinguishing between known tanks and newly discovered tanks.

#### **EMERGENCY MEDICAL SERVICES**

**House Bill No. 1161** addresses emergency medical services operators, allowing for substation ambulance services operations; updating definitions; requiring Health Council rules to address scope of practice for uncertified drivers, certified personnel, and emergency medical services professionals; and increasing from \$2,400 to \$10,000 the fees an emergency medical services volunteer may receive and still retain volunteer status.

**House Bill No. 1162** requires the Health Council to conduct a 2007-08 interim study of the minimum requirements of reasonable emergency services and to report to the Legislative Council on the outcome and recommendations of the study; requires each county to conduct an annual review of the emergency medical services coverage within the county and to submit an annual report to the State Department of Health; and provides that a taxing district that levies property taxes for support of emergency medical services must ensure that every emergency medical services operation that operates in that district receives a benefit of this tax.

**House Bill No. 1296** directs the State Department of Health to distribute a portion of the insurance premiums tax collections to qualified emergency medical services operations and directs the department to establish a strategic plan for an integrated emergency medical services program, including a comprehensive statewide emergency medical services system.

### **CONTAGIOUS DISEASES**

**House Bill No. 1136** adds the pneumococcal disease, meningococcal disease, rotavirus, and Hepatitis A to the list of diseases against which children are required to be immunized in order to enroll in school and child care facilities and provides that in the case of extenuating circumstances, the State Health Officer may authorize children who do not comply with the required immunizations to enroll in school or child care facilities.

**Senate Bill No. 2358** provides that for purposes of court-ordered sexual offense medical testing, the prosecuting attorney must notify the alleged victim of the victim's right to request that the court order the defendant be tested for human immunodeficiency virus or acquired immunodeficiency syndrome and that if such test is requested the court must order that the test be administered within 48 hours after the date the complaint or information is filed or after the defendant's initial appearance.

**House Bill No. 1434** directs the State Department of Health to establish a viral hepatitis vaccination and testing program to be coordinated by the department through local public health units and directs the department to provide viral hepatitis education services.

**House Bill No. 1435** provides for the transition from a universal select immunization program to a provider choice immunization program under Section 317 of the federal Public Health Services Act.

**House Bill No. 1471** directs the State Department of Health to educate the public about the human papilloma virus and the availability of a vaccine for this virus.

**House Bill No. 1122** changes references in the communicable disease confinement law from "appointed counsel" to "counsel provided at public expense."

### **BASIC CARE AND NURSING FACILITIES**

**Senate Bill No. 2418** provides an exception to the moratorium on nursing facility beds for the new Veterans Home construction project.

**Senate Bill No. 2109** extends the moratorium on the expansion of basic care and nursing facility beds; allows the State Department of Health in determining whether to increase the number of basic care beds, to give preferences to facilities that agree to participate in the state's medical assistance program; provides that newly created beds must be licensed within 48 months of approval; and provides a nursing facility may not convert a licensed bed to a basic care bed more than once per 12-month period.

**House Bill No. 1488** provides that for the State Department of Health's survey process for basic care facilities, the life safety portions of the surveys must be announced and half of the health portions of the surveys must be announced. Additionally, the department is directed to establish a two-tiered system of identifying areas of noncompliance with the health portions of the surveys.

### **HOUSING AUTHORITIES**

**Senate Bill No. 2273** allows the governing body of a housing authority to pledge the general obligation of the city or county for which the authority was created as additional security for bonds if the pledged revenues will equal or exceed 110 percent of the principal and interest due on the bonds for the year, the maturity of the bonds does not exceed 35 years, and the principal amount of the issue and the general obligation pledge are approved by the city or county in which the housing project is located and whose general obligation is pledged.

**Senate Bill No. 2214** clarifies a housing authority's power to acquire property through the exercise of eminent domain is subject to the limitations of NDCC Chapter 32-15, the state's eminent domain law.

**House Bill No. 1033** updates a statutory cross-reference in the housing authority law to reflect a repealed chapter of law.

### **HEALTH CARE DIRECTIVES**

**Senate Bill No. 2212** removes the health care directive freedom from influence requirements specifically relating to residents of long-term care facilities, individuals being admitted to a hospital, and hospital patients.

**Senate Bill No. 2308** allows a health care directive to provide for the designation of an agent to make health care decisions for a principal even though the principal retains the capacity to make health care decisions.

### **STATE HEALTH OFFICER, HEALTH COUNCIL, AND STATE DEPARTMENT OF HEALTH**

**House Bill No. 1021** creates the North Dakota Health Information Technology Steering Committee, consisting of the State Health Officer, the Governor, the executive director of the Department of Human Services, individuals representing state government interests, and individuals representing health information technology stakeholders.

**House Bill No. 1290** directs the State Department of Health, during the 2007-08 interim, to contract with a professional organization to perform an evaluation of the trauma system in the state.

**House Bill No. 1129** provides a comprehensive updating of the system of vital records registration, including transitioning to a single-state system for electronic birth and death registration; recognizing birth resulting in stillbirth; amending the law relating to burial-transit permits; and amending the law relating to disclosure of birth, death, and fetal death records.

**Senate Bill No. 2012** provides the State Department of Health must administer services for children with special health care needs under the federal maternal and child health services block grant; creates the duty of a hospital to report to the department the birth of a child with a visible congenital deformity; provides counties must cooperate with the department in administering services for children with special health care needs; and provides the department must provide payment for growth hormone treatment and medical food for children diagnosed with Russell-Silver Syndrome.

**Senate Bill No. 2278** provides that the State Department of Health must establish a central repository for all county and township zoning regulation pertaining to concentrated animal feeding operations.

### **MISCELLANEOUS**

**House Bill No. 1232** provides that unless it is medically inadvisable, a hospital must allow a pregnant patient to arrange for the blood extracted from the umbilical cord of the patient's newborn child to be donated to a public cord blood bank.

**Senate Bill No. 2090**, as part of the state's regulations on smoking, directs the Office of Management and Budget to develop a uniform policy regarding smoking at the outdoor areas near the public entrances of all buildings on the State Capitol grounds.

**Senate Bill No. 2097** provides that for the 2005-07 biennium, fees charged and collected by the Attorney General for services provided by the State Fire Marshal program to entities covered by the petroleum release compensation fund may be collected up to the amount of \$42,900.

**Senate Bill No. 2163** adopts the revised Uniform Anatomical Gift Act and updates related statutory cross-references.

**House Bill No. 1034** adopts the Uniform Trust Code and updates related statutory cross-references.

**Senate Bill No. 2138** removes statutory cross-references to the repealed cohabitation law.

**House Bill No. 1420** updates statutory cross-references relating to regulation of odor for animal feeding operations.

**House Bill No. 1179** clarifies that a governing body may form a single county health district.

## **TITLE 24**

### **Highways, Bridges, and Ferries**

#### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 24. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

**House Bill No. 1130** increases the amount of time the director of the Department of Transportation has to act on claims for extra compensation of \$3 million or more from 60 to 180 days after the claim is served. The bill requires that if a contractor demands arbitration, the decision of the arbitrators must be in writing and must state the basis for the decision.

**House Bill No. 1090** deposits user charges for the central vehicle management system in the Fleet Services fund instead of the highway fund.

**Senate Bill No. 2305** changes the special board appointed by the board of county commissioners to fix damages for the taking of property for a road to include the county officials responsible for the duties of auditor and two "other" officials rather than specifically naming the county treasurer and recorder.

**Senate Bill No. 2214** excludes economic development from the public purposes that may be used for eminent domain as it applies to condemnation of right of way for highways.

**House Bill No. 1344** allows a person having a surface interest in a parcel connected by a section line to another parcel of land in which that person has a surface interest or to a highway to petition the board of county commissioners or the board of township supervisors to improve the section line or a portion of the section line for the purposes of travel for agricultural purposes. The bill allows the petition to be approved if the section line cannot be traveled due to natural obstacles or difficulty of terrain and if the petitioner does not have a readily accessible route of travel to the parcel of land. In addition, the bill requires that the expense of the improvement be paid by the petitioner.

**House Bill No. 1020** exempts certain vehicles from the central vehicle management system as requested by the director of the Agricultural Experiment Station if the vehicles are used in farming operations at the Agronomy Seed Farm and branch research centers.

**House Bill No. 1166** requires the director of the Department of Transportation to include a four-lane alternate in the environmental document for the next major reconstruction project for United States Highway 52. The bill recommends that the four-lane alternative be selected as the preferred alternate and be constructed if the environmental clearance is obtained.

**House Bill No. 1012** allows the director of the Department of Transportation to join the Multistate Highway Transportation Agreement to promote uniformity in vehicle size and weight standards and provides for appointment of members of the House and Senate standing Transportation Committees by the Legislative Council.

## **TITLE 25**

### **Mentally Ill and Retarded, Tubercular, Blind, and Deaf**

### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code (NDCC) Title 25. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

**House Bill No. 1033** removes a cross-reference to NDCC Chapter 48-01.1, which is repealed by this bill.

**House Bill No. 1122** changes language that refers to "court-appointed counsel" to "counsel provided at public expense."

**House Bill No. 1217** provides that in a civil commitment of a sexually dangerous individual proceeding, the retained or appointed counsel has the right to obtain individually identifiable health information regarding a respondent. The bill changes the requirement that at least two experts must conclude that the individual has certain mental disorders before the individual can be committed to a requirement that expert evidence must be admitted which establishes that the individual has those mental disorders before the individual can be committed.

**House Bill No. 1347** changes the membership of the Committee on Protection and Advocacy to include a member appointed by a North Dakota nonprofit advocacy group for people with disabilities. The bill provides that whenever an appointment to this position is to be made, the other members of the committee are required to select the group from which the appointment is to be made.

**Senate Bill No. 2012** provides that the State Department of Health, not the Department of Human Services, is responsible for the programs that deal with the testing of newborns.

**Senate Bill No. 2066** relates to the moratorium on the expansion of residential treatment center for children bed capacity. The bill provides that the moratorium does not apply to nor prohibit the Department of Human Services from licensing additional bed capacity for a new psychiatric residential treatment facility for children if the additional beds are designated for the care of children and adolescents who are residents of other states. The bill also removes the expiration date of July 31, 2007.

**Senate Bill No. 2130** removes the term "residential treatment center for children" to "psychiatric residential treatment facility for children." The bill defines the new terms as a treatment facility that provides certain group living, educational, and treatment services for children. The bill also provides for the licensure requirements for these facilities. The bill removes the expiration date on the moratorium on the expansion of psychiatric residential treatment facility for children bed capacity.

## **TITLE 26.1**

### **Insurance**

### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code (NDCC) 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 these subject areas: Insurance Commissioner; insurance premium tax; insurance companies; health; and miscellaneous.

#### **INSURANCE COMMISSIONER**

**Senate Bill No. 2010** increases the Insurance Commissioner's salary to \$76,511 for the first year of the biennium and to \$79,571 thereafter and allows the commissioner to expand the coverage under the state fire and tornado fund to include personal property.

**Senate Bill No. 2067** adds documents and information from international law enforcement officials to the types of documents that the Insurance Commissioner must maintain as confidential.

**Senate Bill No. 2155** requires the Insurance Commissioner to regulate annuity transactions.

**Senate Bill No. 2411** addresses the licensure and examination of hobby boilers, including special rules for hobby boilers used where the public is invited.

#### **INSURANCE PREMIUM TAX**

**Senate Bill No. 2183** provides a continuing appropriation of a portion of the insurance premiums tax collections to fund a firefighter's death benefit fund.

**House Bill No. 1296** requires the State Department of Health to distribute a portion of the insurance premiums tax collections to qualified emergency medical services operations.

#### **INSURANCE COMPANIES**

**House Bill No. 1274** removes the prohibition of nonprofit mutual insurance companies paying dividends.

**Senate Bill No. 2296** modifies insurance rate filing requirements for competitive market commercial rate filings, private passenger automobile rate filings in which the average rate change is less than 5 percent, and homeowner rate filings in which the average rate change is less than 5 percent.

**Senate Bill No. 2171** provides the principal office of a county mutual insurance company must be located within the company's approved territory of operation.

#### **HEALTH**

**House Bill No. 1155** provides several updates to the law relating to the Comprehensive Health Association of North Dakota.

**Senate Bill No. 2154** decreases the loss ratio to 70 percent of premium for group and to 55 percent of premium for individual health insurance policies.

**Senate Bill No. 2252** provides a health insurance mandate that policies include coverage for medical services related to suicide.

**Senate Bill No. 2318** removes the health insurance policy provision regarding proportional-based coordination of benefits which was perceived to be in conflict with the order of payment-based coordination of benefits provision provided in the administrative rules adopted under NDCC Section 26.1-36-10.

### **MISCELLANEOUS**

**House Bill No. 1037** provides an automobile insurer that issues a policy must provide proof of insurance to the insured in the form of written evidence of the policy's terms.

**Senate Bill No. 2065** removes the requirement that applicants for residential insurance producer licenses have completed an approved prelicensing course of study for the lines of authority for which the applicant is applying.

**Senate Bill No. 2097** increases for the 2005-07 biennium the amount of fees the Attorney General collects for services provided by the State Fire Marshal program.

**Senate Bill No. 2268** replaces the current chapter of law relating to viatical settlement contracts with a new chapter of law.

**TITLE 27**  
**Judicial Branch of Government**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 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.

**House Bill No. 1002** provides for the salaries for the justices of the Supreme Court and for the district court judges for the 2007-09 biennium.

**House Bill No. 1083** eliminates the electronic filing administration fund and the continuing appropriation of money in that fund to the judicial branch.

**House Bill No. 1092** makes changes to the Uniform Juvenile Court Act. The bill allows a juvenile drug court to order a child participating in drug court to be detained twice during the period of participation but for not more than four days in a one-year period. The bill provides that a child, if determined indigent, is entitled to appointed counsel during informal adjustments and provides that a parent is entitled to appointed counsel only during the dispositional stage if a petition alleges delinquency or unruliness. The bill does not change the requirement that an indigent parent is entitled to counsel at all stages if deprivation is alleged. The bill also addresses the federal Indian Child Welfare Act requirement that "active efforts" to preserve the Indian family be shown before a court may place an Indian child in foster care or terminate parental rights with respect to an Indian child. The bill allows the court to establish a guardianship for a child if a child is found to be delinquent, unruly, or deprived and sets forth the procedures for establishing and terminating the guardianship.

**House Bill No. 1097** extends the expiration date of the temporary court of appeals from January 1, 2008, to January 1, 2012.

**House Bill No. 1122** corrects references to the appointment of indigent defense by the court. The bill provides that the indigent defense is to be provided at public expense by the Commission on Legal Counsel for Indigents.

**TITLE 28**  
**Judicial Procedure, Civil**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code (NDCC) Title 28. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

**House Bill No. 1128** exempts the Industrial Commission, with respect to the activities of the North Dakota Pipeline Authority, from the definition of administrative agency.

**House Bill No. 1501** authorizes the court to award the prevailing nonagency party reasonable attorney's fees and costs in a civil judicial proceeding involving adverse parties to an appeal or enforcement action involving an environmental permit. The bill also directs the court to award reasonable attorney's fees and costs if the court determines that the nonprevailing nonagency party's claims or allegations are frivolous.

**Senate Bill No. 2170** provides that the amount payable to a sheriff by a depository institution or credit union that has been served with a notice of levy is limited to the lesser of the amount necessary to satisfy the execution or the deposit account balance of the debtor at the time the notice of levy is served.

**Senate Bill No. 2221** addresses the effect of bankruptcy on a judgment lien. The bill provides that if a judgment lien appears on a judgment debtor's real property and the debtor is later the subject of bankruptcy proceedings in which the judgment lien is avoided or set aside, the judgment lien may be terminated of record by filing a certified copy of the bankruptcy court lien avoidance judgment. The bill also repeals NDCC Sections 28-20-30, 28-20-31, and 28-20-32, which relate to the cancellation of judgment against bankrupts, service in bankruptcy proceedings, and affidavits in bankruptcy proceedings.

**Senate Bill No. 2222** clarifies and makes miscellaneous changes with respect to the procedure for the redemption of property. The bill provides that except for redemption from foreclosure sales, the redemption period for property is one year from the date of the sheriff's sale.

**Senate Bill No. 2277** clarifies and makes miscellaneous changes with respect to the procedure for the collection of a judgment by the selling of real or personal property. The bill sets forth different procedures for the sale of real property and the sale of personal property. The bill also changes where the notice of sale is to be published. The bill permits the sale of several lots or parcels of real property to be combined if the lots or parcels constitute one parcel upon which improvements have been constructed.

**Senate Bill No. 2284** relates to exemptions from process for proceeds of a wrongful death or personal bodily injury recovery. The bill increases the amount that is exempt from this source from \$7,500 to \$15,000.

**TITLE 29**  
**Judicial Procedure, Criminal**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 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. 1122** provides that the payment of expenses for the defense of indigents is the responsibility of the Commission on Legal Counsel for Indigents. The bill also provides that the expenses for the defense of an indigent person prosecuted in municipal court, when approved by the judge, must be paid by the city in which the alleged offense took place.

**House Bill No. 1224** provides that a report or a portion of a report of a state grand jury which is suppressed or sealed may not be opened even by order of the court.

**Senate Bill No. 2243** imposes a \$50 community service supervision fee upon each defendant who receives a sentence that includes community service. The bill provides that the community service supervision fees collected are to be deposited in the community service supervision fund. The fund is to be used to provide community service supervision grants.

**Senate Bill No. 2248** provides that any person who, while outside North Dakota, solicits sexual contact with a person believed to be a minor who at the time of the solicitation is located in this state, is subject to prosecution under the laws of North Dakota. The bill also provides that the venue for the prosecution of the crime of luring a minor by computer or other electronic means is in any county in which the offense is committed, or into or out of which the individual upon whom the offense was committed may have been brought in the course of the commission of the offense, or in which an act was done by the accused in instigating, procuring, promoting, soliciting, or facilitating the commission of the offense.

**Senate Bill No. 2378** provides that, under certain conditions, a federal agent, which includes an employee of the Federal Bureau of Investigation or the federal Drug Enforcement Administration who is authorized to arrest for a violation of a federal law, has the same authority and immunity as a peace officer in this state for making an arrest for a nonfederal crime.

**TITLE 30**  
**Judicial Procedure, Probate**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

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

**TITLE 30.1**  
**Uniform Probate Code**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 30.1. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

**House Bill No. 1408** voids the interest of a killer in property held with the decedent as joint tenants with right of survivorship.

**House Bill No. 1034** adopts the Uniform Trust Code with specific changes to address provisions of this state's law. In particular, the bill allows for trusts for the care of an animal, addresses spendthrift provisions and the rights of creditors, and effectively eliminates the distinction between discretionary trusts and support trusts.

**TITLE 31**  
**Judicial Proof**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 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. 1122** provides that the Commission on Legal Counsel for Indigents rather than the Supreme Court is responsible for paying for witness fees and expenses for witnesses in those cases in which counsel has been provided by the commission.

**House Bill No. 1197** provides that a person 18 years of age or over who is arrested for the commission of a felony is required to provide correctional personnel upon booking a sample of blood or other bodily fluids for DNA law enforcement identification purposes and inclusion in the law enforcement identification data bases. The bill also provides that a person whose DNA profile has been included in the data base may petition the court for expungement on the grounds that the arrest that led to the inclusion of the DNA profile has not resulted in a felony charge within one year; has been resolved by a dismissal, acquittal, or misdemeanor conviction; or has not resulted in a felony conviction. The bill becomes effective on August 1, 2009.

**House Bill No. 1224** provides that a person whose DNA profile has been included in the DNA data base may petition the district court to seal the court record on the grounds that the conviction on which the authority for including the DNA profile was based has been reversed or the case dismissed. The bill provides that a sealed record may not be opened even by court order.

**House Bill No. 1333** provides that a statement, affirmation, gesture, or conduct of a health care provider which expresses apology, sympathy, commiseration, condolence, compassion, or benevolence to a patient or a patient's relative or representative is not admissible as evidence of liability in a civil action or other civil proceeding regarding the health care provider.

**House Bill No. 1355** provides that for the purposes of determining whether DNA testing is mandated, "conviction" and "convicted" mean a plea of guilty or a finding of guilty by a court or a jury of certain crimes regardless of whether the court suspended execution of sentence or deferred imposition of sentence.

## **TITLE 32**

### **Judicial Remedies**

### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 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. 1108**, with respect to automated external defibrillator use, removes the provision that certain requirements must be met before a licensed physician, the person who provides the training on the automated external defibrillator, or the person responsible for the site on which the automated external defibrillator is located are immune from civil liability for injury resulting from the use of or failure to use the device.

**House Bill No. 1211** relates to the garnishment of wages. The bill provides that regardless of whether the garnishment debtor fails to provide a list to an employer of dependents who reside with the garnishment debtor within the 10-day period provided for in this section, the garnishment debtor may provide the list at a later date, in which case the exemptions claimed will be in effect subject to garnishment after the date the list is provided. The bill also updates the garnishment forms with respect to notice requirements, the form of summons and notice, and disclosure.

**House Bill No. 1322** directs the director of the Office of Management and Budget to establish guidelines for indemnification and insurance provisions in contracts that may be entered by an executive branch state agency.

**House Bill No. 1452** provides that a charitable organization may be held liable only for money damages for a personal injury or property damage proximately caused by the negligence or wrongful act or omission of an employee acting within the employee's scope of employment. The bill limits the charitable organization's liability to a total of \$250,000 per person and \$1 million for any number of claims arising from any single occurrence.

**Senate Bill No. 2214** relates to the appropriate uses of eminent domain. The bill provides that private property may not be taken for the use of, or ownership by, any private individual or entity unless that property is necessary for conducting a common carrier or utility business. The bill also provides that a public use or a public purpose does not include public benefits of economic development, including an increase in tax base, tax revenues, employment, or general economic health.

**Senate Bill No. 2216** provides that a person redeeming from a sheriff's sale may pay the required amount either to the holder of the certificate or to the sheriff. The bill also removes the requirement that a notice before foreclosure be served by registered mail. Under the bill, the notice may be served by mail addressed to the owner of record at the owner's post-office address in the mortgage or by the records in the chain of title of the recorder of the county where the real estate is situated.

**Senate Bill No. 2242** expands the definition of "political subdivision," as it applies to governmental liability, to include administrative or legal entities responsible for administration of joint powers agreements.

**Senate Bill No. 2260** provides that when an individual files a petition for a name change, the court is required to determine whether the petitioner has a criminal history in this state or any other state. The bill provides that the court may require the petitioner to submit to a statewide and nationwide criminal history record check. The bill provides that if the individual petitioning for a name change has a felony conviction, the request is presumed to be made in bad faith, to defraud or mislead, to cause injury to an

individual, or to compromise public safety. The bill provides that the name change may not be granted unless the individual proves by clear and convincing evidence that the request is not based upon an intent to defraud or mislead, is made in good faith, will not cause injury to an individual, and will not compromise public safety.

**Senate Bill No. 2274** relates to the garnishment of wages. The bill changes the formula to establish the amount a garnishee is permitted to retain. The bill updates the garnishment forms with respect to the form of summons and notice and disclosure.

**TITLE 33**  
**County Justice Court**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

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

June 2007

**TITLE 34**  
**Labor and Employment**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 34. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in this memorandum.

**House Bill No. 1070**, for purposes of labor law restricting the number of hours a minor may work, changes the schoolweek from Monday through Sunday to Sunday through Saturday.

**House Bill No. 1454** provides for a statutory state minimum wage of \$5.85 per hour with a statutory increase in 12 months to \$6.55 per hour and another statutory increase in 12 months to \$7.25 per hour. The effective date of this bill is contingent on the chairman of the Legislative Council filing a certificate that the federal minimum wage has been increased.

**Senate Bill No. 2193** prohibits an agency, appointing authority, organization, or employee from restricting access of any employee to any member or committee of the legislative assembly.

**TITLE 35**  
**Liens**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 35. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

**House Bill No. 1304** provides the filing fees for an agister's lien and related documents, an agricultural processor's lien and related documents, and an agricultural supplier's lien and related documents are the same as provided under the state's Uniform Commercial Code.

**House Bill No. 1338** provides that for purposes of the agricultural processor's lien and the agricultural supplier's lien, the law does not limit the sale, assignment, or transfer of the lien; however, the priority of an effective lien is not transferable from the original lienholder.

**Senate Bill No. 2285** provides that a verified statement for an agricultural processor's lien may not be filed unless the statement is accompanied by proof of mailing of notification of the lien to the debtor's last-known address by registered or certified mail.

**Senate Bill No. 2205**, for purposes of the child support lien law, replaces the term "public authority" with the term "child support agency."

June 2007

**TITLE 36**  
**Livestock**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 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.

**Senate Bill No. 2114** authorizes the Agriculture Commissioner to collect fees for the actual direct cost of providing brucellosis tags, identification tags, and health books. The fees are to be deposited in the Agriculture Commissioner's operating fund and are appropriated on a continuing basis to the State Board of Animal Health.

**Senate Bill No. 2338** appropriates \$90,836 to the State Board of Animal Health for the development and maintenance of an animal tracking data base.

**House Bill No. 1421** clarifies that the definition of cruelty and torture, for purposes of the humane treatment of animals, does not include licensed or permitted activities under Chapter 20.1-03; usual and customary practices in production agriculture; scientific research by a qualified researcher; any show, fair, competition, or parade; rodeo; wagon or buggy ride; trail or pleasure riding; and the training or teaching of animals.

## **TITLE 37**

### **Military**

### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 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. 2115** allows the Governor to order into active service the National Guard to perform training activities. The bill allows National Guard tuition grants to any accredited postsecondary institution, instead of as previously allowed to any private or nonprofit college or university granting a baccalaureate degree, if the institution agrees to waive 25 percent of the tuition, instead of as previously allowed the difference between the tuition grant and the tuition charged. The bill provides adjusted compensation to members of the North Dakota National Guard and North Dakota residents of the Reserve and extends payment until June 30, 2009.

**Senate Bill No. 2142** allows up to \$5,000 to be the total amount of loans from the veterans' aid fund instead of one loan.

**Senate Bill No. 2353** clarifies the veterans' preference in employment and requires back pay for the time an individual was entitled to employment to the time the individual was employed as a result of a preference hearing.

**House Bill No. 1425** removes the requirement the general fund appropriations to the Veterans Home may be expended only when federal or other funds are not available and upon approval of the director of the Office of Management and Budget.

**House Bill No. 1291** increases the death benefit for a veteran who died in active service from \$2,500 to \$5,000.

**Senate Bill No. 2137** includes as one of the purposes of the North Dakota Disaster Act to reduce loss of life and property resulting from threats to homeland security and provide for a statewide emergency management system incorporating the principles of the National Incident Management System and its incident command system as well as other applicable federal mandates. The bill requires the Division of Homeland Security to provide technical assistance for the development and revision of local disaster or emergency operations plans. The bill requires the Division of Homeland Security, in coordination with lead and support agencies, to train on skills important to prevention, to enter agreements with the federal government, and to allow search for and rescue of a person whether or not there has been a violation of criminal law. The bill removes the requirement for the Division and Homeland Security to publish and keep a list of cities desiring to have an emergency management organization of their own and requires a city and county to coordinate city and county emergency plans if a city provides an emergency management organization of its own. The bill clarifies the prevention role of the Department of Homeland Security and provides technical corrections and definitions. The bill allows the governing body of any county with a tax levy for emergency purposes to use the emergency fund to match federal funds appropriated to mitigate damage to roads related to a federally declared disaster that occurred more than 60 days preceding the determination to expend emergency funds.

## **TITLE 38**

### **Mining and Gas and Oil Production**

### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code (NDCC) Title 38. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to mining and gas and oil production may be classified in these subject areas: oil and gas and mineral interests.

#### **OIL AND GAS**

**House Bill No. 1229** requires a drilling permit applicant to provide notice to the owner of any permanently occupied dwelling located within one-quarter mile of the proposed oil or gas well. The bill provides that unless waived by the owner or if the Industrial Commission determines that the well location is reasonably necessary to prevent waste or to protect correlative rights, the commission may not issue a drilling permit for an oil or gas well that will be located within 500 feet of an occupied dwelling. The bill also provides that if the commission issues a drilling permit for a location within 500 feet of an occupied dwelling, the commission may impose such conditions on the permit as the commission determines reasonably necessary to minimize impact to the owner of the dwelling.

**House Bill No. 1511** provides that the Industrial Commission may place wells in abandoned-well status which have not produced oil or natural gas in paying quantities for one year. The bill provides that a well in abandoned-well status must be promptly returned to production in paying quantities, approved by the commission for temporarily abandoned status, or plugged and reclaimed within six months. The bill provides that if none of the three conditions is met, the commission may require the well to be placed immediately on a single-well bond in an amount equal to the cost of plugging the well and reclaiming the well site. The bill provides that after a well has been in abandoned-well status for one year, the well's equipment, all well-related equipment at the well site, and salable oil at the well site are subject to forfeiture by the commission. The bill also provides that after a well has been in abandoned-well status for one year, the single-well bond, or any other bond covering the well if the single-well bond has not been obtained, is subject to forfeiture by the commission.

**House Bill No. 1060** removes the \$250,000 cap on the abandoned oil and gas well plugging and site reclamation fund and establishes the geophysical, geothermal, subsurface minerals, and coal exploration fund. The bill provides that the geophysical, geothermal, subsurface minerals, and coal exploration fund is to be used to pay costs and expenses incurred by the Industrial Commission to satisfy unfulfilled obligations imposed on persons regulated by the commission. The bill provides that the geophysical, geothermal, subsurface minerals, and coal exploration fund is capped at \$500,000 with any additional money collected deposited in the general fund. The bill became effective on April 13, 2007.

**House Bill No. 1014** provides that notwithstanding any other provision of law, the Industrial Commission, Department of Mineral Resources, Public Service Commission, or any other state entity that approves a carbon sequestration or storage project must give priority to an operation located in this state for the expected life of the operation.

#### **MINERAL INTERESTS**

**House Bill No. 1034** provides that the appointment of a trustee to execute a mineral lease if contingent future interests are involved or to execute a mineral lease and other documents if the owner or claimant is unknown must be done in compliance with the Uniform Trust Code.

**House Bill No. 1045** provides that an owner of the surface estate in the land in or under which the mineral interest is located on the date of abandonment under the termination of mineral interest or Dormant Minerals Act may record a statement of succession of interest indicating that the owner has succeeded to ownership of the mineral interest.

**House Bill No. 1048** creates a new chapter to NDCC Title 38 governing the creation and administration of trusts for unlocatable, mineral, leasehold, or royalty interest owners.

June 2007

## **TITLE 39**

### **Motor Vehicles**

### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 39. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to motor vehicles may be classified in these subject areas: driver's license; driving while under the influence; rules of the road and traffic offenses; emergency vehicles; motor vehicle dealers; Highway Patrol; title, registration, and special permits; motorcycles, snowmobiles, low-speed vehicles, and off-highway vehicles; commercial vehicles and licenses; and miscellaneous.

#### **DRIVER'S LICENSE**

**House Bill No. 1158** allows a child to take a road test in an automobile that is not the parent's or guardian's automobile.

**Senate Bill No. 2163** adopts the Uniform Anatomical Gift Act and changes cross-references that allow an applicant for a driver's license to identify the applicant as a donor.

**House Bill No. 1227** provides that an application from an individual applying for a nondriver color photo identification card must include an applicant's Social Security number.

**Senate Bill No. 2112** provides that nondriver color photo identification cards expire eight years from the date of issue and may be renewed. The bill provides for a temporary operator's license or identification card for the period of time an applicant is authorized to stay in the United States or one year if no definite time is stated for individuals in the United States on a nonimmigrant visa, on a pending application for asylum, on a pending or approved application for temporary protected status, on approved deferred action status, or on a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence or conditional permanent resident status.

#### **DRIVING WHILE UNDER THE INFLUENCE**

**House Bill No. 1396** changes the reference from blood alcohol as a percentage of alveolar air to end expiratory breath.

**House Bill No. 1468** allows a law enforcement agency making arrests for driving while under the influence, if test results indicate an alcohol concentration at or above the legal limit, to mail a temporary operator's permit and deems the third day after mailing of the temporary operator's permit the date of issuance. The bill requires the person receiving the temporary operator's permit to mail that person's operator's license to the law enforcement agency. The bill deems actual notice of the opportunity for a hearing to have occurred 72 hours after the notice is mailed by the law enforcement agency.

#### **RULES OF THE ROAD AND TRAFFIC OFFENSES**

**House Bill No. 1037** increases from 18 months to 3 years the period during which a person convicted for a second or subsequent violation of driving without liability insurance must be fined at least \$300. The bill requires the court to impound the motor vehicle number plates of a motor vehicle owned and operated by a person upon a second or subsequent conviction for driving without liability insurance. The person is required to deliver the plates to the court and the court is required to deliver the plates to the department. The person may reclaim the plates after providing proof of insurance and a \$20 fee to the department. The bill creates a Class B misdemeanor for a person not providing the number plates to the court.

**Senate Bill No. 2146** shortens the time in which a person involved in an accident has to provide proof of insurance from 20 days to 3 business days.

**Senate Bill No. 2175** requires a driver of a vehicle to stop and yield as if there is a stop sign if the driver approaches an intersection that has traffic control signals that usually exhibit different colored lights and the signals are not lit.

**House Bill No. 1114** clarifies language relating to minimum speed limits.

**House Bill No. 1236** prohibits an individual from depositing upon any highway any litter, in addition to what was previously prohibited--substances likely to injure a person, animal, or vehicle.

### **EMERGENCY VEHICLES**

**House Bill No. 1234** designates a flashing green light as the command center in an emergency.

**House Bill No. 1087** classifies vehicles operated by or under the control of the State Forester as Class A authorized emergency vehicles.

**House Bill No. 1310** allows a law enforcement vehicle that is a Class A authorized emergency vehicle to display a flashing blue light in addition to and under the same conditions as other lights.

### **MOTOR VEHICLE DEALERS**

**Senate Bill No. 2111** changes the fee for additional dealer plates from \$25 to \$20 each and no longer requires in-transit plates and demonstration plates.

**Senate Bill No. 2148** clarifies motor vehicle dealer licensure law and removes the penalty of suspension of the motor vehicle dealer's license and replaces it with a fee of at least \$500 but not more than \$2,000 for a third or subsequent violation relating to motor vehicle dealer lots, licensure requirements, plate usage, display and sale of vehicles by out-of-state dealers, consignment vehicles, and display lots. In addition, the bill allows the Department of Transportation discretion in suspending a license and imposing a fee for a violation, instead of requiring suspension and a fee as was previously provided.

### **HIGHWAY PATROL**

**House Bill No. 1063** clarifies the jurisdiction of the Highway Patrol on state-owned or leased property.

**Senate Bill No. 2048** clarifies that only active members can purchase retirement service credit; makes technical corrections; updates federal compliance provisions; allows information regarding employer purchase programs to be considered public information, not confidential; and changes the sick leave conversion policy into compliance with federal law regarding the timeframe in which a purchase can be paid.

**House Bill No. 1064** creates the Highway Patrol asset forfeiture fund for assets seized and subjected to drug forfeiture and for amounts received as restitution. The fund is limited to \$300,000 and the fund may be used for costs relating to property seized, overtime compensation relating to the control of drug abuse, purchasing equipment related to criminal interdiction, and paying matching funds for investigating drug crimes.

### **TITLE, REGISTRATION, AND SPECIAL PERMITS**

**Senate Bill No. 2113** changes the reference from the single state insurance registration system to the unified carrier registration system.

**House Bill No. 1398** increases the weight allowed for a motor vehicle of a disabled veteran to not be subject to registration fees from not more than 10,000 pounds to not more than 26,000 pounds.

**Senate Bill No. 2263** changes the annual \$5 fee for veterans' number plates that is deposited into the highway tax distribution fund to an initial fee of \$15 with \$10 in the highway tax distribution fund and \$5 in the Veterans Cemetery fund. The bill changes the investment duties of the Veterans Cemetery trust fund from the State Investment Board to the State Treasurer to invest in the same manner as by the State Investment Board.

**Senate Bill No. 2360** allows the public or nonprofit organization number plates to be issued with proof of a minimum of 50 applicants and a one-time payment of \$1,500, instead of 400 applicants as was previously required.

**Senate Bill No. 2406** provides for a yearly overwidth vehicle permit for a load that is 14 feet 6 inches or less for \$500 and a yearly fee of \$20 for the movement of a noncommercial fish house trailer.

**House Bill No. 1295** creates a yearly permit fee of \$300 for non-self-issuing interstate permits.

### **MOTORCYCLES, SNOWMOBILES, LOW-SPEED VEHICLES, AND OFF-HIGHWAY VEHICLES**

**House Bill No. 1183** allows handlebars on motorcycles to not be higher than the shoulder height of the seated operator.

**House Bill No. 1205** requires a motorcycle to be equipped with at least one taillamp and one stop lamp.

**House Bill No. 1362** changes the decal display for payment of the trail access fee to a purchase of an out-of-state public trails and land access permit. The bill requires the permit to be in the operator's possession when operating a snowmobile within the state and allows dealers and agents selling the permit to retain \$1 of the \$15 fee.

**House Bill No. 1465** classifies motorcycles, off-highway vehicles, and snowmobiles as motor-powered recreational vehicles for the purposes of a dealer's license.

**House Bill No. 1445** requires an off-highway vehicle to be equipped with a mirror, horn, speedometer and odometer, brake light, lighted headlamp, and a motor of at least 350 cubic centimeters to be operated on a highway. The bill allows an individual to operate a registered off-highway vehicle on a paved highway if the highway has a speed limit not exceeding 55 miles per hour. The bill allows a licensed driver over 16 years of age to operate a registered Class III off-highway vehicle on a paved highway with a speed limit not exceeding 65 miles per hour.

**House Bill No. 1089** increases the weight allowed for a low-speed vehicle from 1,500 pounds in unloaded weight to 3,000 pounds when fully loaded with passengers and any cargo and makes technical corrections to the equipment required for a low-speed vehicle.

### **COMMERCIAL VEHICLES AND LICENSES**

**House Bill No. 1400** includes trees within the waiver from a commercial driver's license for farm-to-market operations by farmers to transport agricultural products to or from a farm and allows the waiver of the knowledge and skills test for a commercial driver's license for retailers and suppliers of trees.

**House Bill No. 1068** exempts vehicles driven for military purposes from commercial driver's license requirements, subject to federal regulations. In addition, the bill limits the waiver for a person driving a commercial vehicle for a political subdivision during an emergency to a political subdivision with a population of fewer than 3,000 and when necessary licensed drivers are not available.

**House Bill No. 1359** prohibits the Highway Patrol from adopting or enforcing any law or rule requiring rear-end protection on a rear-end dump truck or other rear unloading truck or trailer while being used to haul agricultural products from a place of production or on a farm storage site to a place of processing or storage.

## MISCELLANEOUS

**House Bill No. 1012** authorizes the director of the Department of Transportation to continue to collect registration fees if the Congress authorizes continuation of participation in a single state insurance registration system for motor carriers. The bill transfers public transportation funds to each county in a base amount of four-tenths of 1 percent of the appropriation for the program plus \$1.50 per capita of population instead of a base amount of \$18,300 plus \$1.50 per capita of population. The bill removes the requirement that money remaining in the fund at the end of each biennium must be retained in the public transportation fund. The bill allows an individual under 16 years of age to operate an off-highway vehicle as a participant in an organized sporting event that involves the use of off-highway vehicles.

**House Bill No. 1069** makes technical corrections to laws relating to operators' licenses, motor vehicle equipment, temporary restricted licenses, tests for intoxication, and the information a law enforcement officer must inform a person about as a result of a to submit to blood alcohol testing, and the seizure and return of an operator's license for failure to provide proof of financial responsibility.

**House Bill No. 1258** allows a business that derives a major portion of income or visitors from individuals who do not reside in the immediate area of the business to use tourist-oriented directional signs. The bill defines the immediate area of the business as within the city limits, if the business is located in a city, or within one mile from a business located outside city limits.

**House Bill No. 1090** removes the motor vehicle registration fund and provides for funds that previously went into the motor vehicle registration fund to be deposited in the highway tax distribution fund.

**Senate Bill No. 2288** increases the cap on the ethanol production incentive fund from \$5 million to \$7.5 million.

**TITLE 40**  
**Municipal Government**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code (NDCC) Title 40. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

**House Bill No. 1033** revises statutory provisions relating to bidding and public improvement contracts and allows state and local governments to use the construction management delivery method.

**House Bill No. 1321** reduces the extraterritorial zoning authority of cities from one mile to one-half mile for cities with a population fewer than 5,000; from two miles to one mile for cities with a population of 5,000 or more, but fewer than 25,000; and from four miles to two miles for cities with a population of 25,000 or more. The bill provides that the reductions are effective through July 31, 2009, and that any extraterritorial zoning regulation in effect before May 1, 2007, is not affected by the reduction. The bill also allows a city to extend its zoning authority to two times the reduced distance if the extension is approved by at least five of six members of a committee established to review the proposed extension. The bill provides that the committee must consist of three members appointed by the governing body of the city and three members appointed jointly by the governing bodies of any political subdivision that is exercising zoning authority within the territory to be extraterritorially zoned.

**Senate Bill No. 2236** provides that a candidate for the city commission may run for either the office of city commissioner or the office of president of the board of city commissioners but not both in the same election and a candidate for city council may run for either the office of mayor or council member but not both in the same election.

**Senate Bill No. 2271** requires the governing body of a city, a city zoning commission, and a board of adjustment to state the grounds upon which any request for a zoning amendment or variance is approved or disapproved and requires a planning commission to state the grounds upon which any request for approval of a plat is approved or disapproved. The bill also requires those entities to include within their records written findings upon which those decisions are based.

**House Bill No. 1029** limits the authority of a city to transfer home rule sales tax revenues to or for the primary benefit of a school district. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on April 19, 2007.

**Senate Bill No. 2149** authorizes a city job development authority to take an equity position in, provide a loan to, or use any other innovative financing mechanism to provide capital for a new or expanding business in the state or a business relocating to the state.

**House Bill No. 1225** increases the maximum area of a proposed renaissance zone from 20 square blocks to 23 square blocks. The bill also provides that a proposed renaissance zone may have a single exception to the requirement that the zone consist of a continuous boundary and contiguous blocks if the area of the excepted noncontiguous blocks does not exceed three square blocks and if the shortest distance between the noncontinuous boundaries of the two portions of the zone does not exceed one-half mile.

**House Bill No. 1476** authorizes the governing body of a city to allow the operation of golf carts on the city streets for daytime travel between the owner's place of residence and a golf course.

**Senate Bill No. 2214** provides that a city, a park district, or other municipal body that intends to exercise the power of eminent domain must exercise that power subject to the provisions of NDCC Chapter 32-15.

**Senate Bill No. 2380** provides that city sales and use taxes and gross receipts taxes must be administered by the Tax Commissioner in accordance with the Streamlined Sales and Use Tax Agreement.

**Senate Bill No. 2349** provides that upon completion of the Medal of Honor monument in Roosevelt Park in Minot, ownership and responsibility for the monument's maintenance belongs to the Minot Park Board or its successor.

**TITLE 41**  
**Uniform Commercial Code**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 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. 1035** adopts the revised Uniform Commercial Code Article 1 - General Provisions and updates related cross-references.

**House Bill No. 1304** amends the law providing the fees relating to Uniform Commercial Code Article 9 - Secured Transactions, including the fee for filing and indexing an original, nonstandard statement; the fee for filing and indexing an amendment; the fee for a filing office providing information on specific filings on a particular debtor; and the fee for furnishing copies of a filed instrument.

**Senate Bill No. 2350** provides a new chapter providing criminal and civil penalties for filing of fraudulent and harassing financing statement records.

**TITLE 42**  
**Nuisances**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

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

## **TITLE 43**

### **Occupations and Professions**

#### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 43. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

#### **ABSTRACTERS**

**Senate Bill No. 2217** increases the amounts of the fees that an abstracter may charge for making and certifying an abstract.

**Senate Bill No. 2119** updates the requirements for abstracters, including that an abstracter must have and maintain a complete tract index and all instruments of record in the office of the recorder in and for the county in which the abstracter is engaged in business.

#### **ADDICTION COUNSELORS**

**House Bill No. 1053** modifies the law regulating addiction counselors, including amending definitions, decreasing the membership of the board of addiction counseling examiners from nine members to seven members, amending the board's powers and duties, amending the provisions relating to renewal of a license, and modifying the requirements for an addiction counselor to engage in private practice.

#### **BARBERS**

**House Bill No. 1477** provides limitations on how a barber pole may be used and by whom, in order to avoid deceptive acts.

#### **CONTRACTORS**

**Senate Bill No. 2158** modifies the law regulating contractors, clarifying that contractors maintain a limited liability or limited partnership registration; providing that failure of a contractor to be licensed as required results in that contractor being prohibited from maintaining a claim, action, suit, or proceeding in court related to the contractor's business or capacity as a contractor; and authorizing the Secretary of State to destroy contractor license renewals after they have been on file for six years.

**House Bill No. 1033** as part of a bill that replaces the existing law regarding public improvements, updates a statutory cross-reference in the law regulating contractors.

#### **DENTISTS**

**House Bill No. 1293** provides a physician or physician assistant may apply topical fluoride varnish in accordance with rules adopted by the State Board of Dental Examiners; an advanced practice registered nurse may apply topical fluoride varnish if the nurse has completed training approved by the board; and a registered nurse, licensed practical nurse, registered dental hygienist, or registered dental assistant who has completed training approved by the board may apply topical fluoride varnish if acting under the direct or general supervision of a physician or dentist.

**House Bill No. 1313** updates the law relating to regulation of dentists and dental assistants, including changing the duties of the Board of Dental Examiners' secretary treasurer and executive director and changing the board member rate of compensation, modifying the scope of practice of a dental assistant, providing a dental assistant is an auxiliary to the practice of dentistry; expanding the exemptions to regulation of dentists to include a dentist from another state who is attending an educational program in this state; recognizing a dentist may practice a specialty practice; providing the board may conduct specified background investigations on applicants and licensees, including requiring criminal history

checks; and providing dentists have a mandatory duty to report any illegal, unethical, or errant behavior or conduct of another dentist.

**Senate Bill No. 2152** provides the additional requirement to qualify to be selected under the dentists' loan repayment program that a dentist within 15 miles of Bismarck, Fargo, or Grand Forks must provide dental services to low-income patients in the first year of receiving benefits under the program and broadens the dentists' loan repayment program to include new practice grants.

### **ELECTRICIANS**

**House Bill No. 1218** increases the journeyman electrician licensure qualifications for an applicant who registers as an apprentice with the State Electrical Board after January 31, 2008.

### **NURSES**

**House Bill No. 1118** authorizes the State Board of Nursing to issue a limited license or registration to an applicant upon the showing of good cause; updates references to unlicensed assistive persons; and provides exceptions to the requirements for licensure by endorsement to practice as a licensed practical nurse.

**Senate Bill No. 2025** provides the circumstances under which a correctional facility employee who is not licensed by the State Board of Nursing may provide medication to an inmate of the correctional facility.

**Senate Bill No. 2130** as part of a bill providing comprehensive changes relating to psychiatric residential treatment for children, updates language exempting from the nurse regulation laws an individual who provides medication within a psychiatric residential treatment facility for children.

### **OPTOMETRISTS**

**House Bill No. 1123** clarifies the secretary of the State Board of Optometry may delegate authority to a designee, modifies the payment of the annual licensure renewal fee from payment in January to payment in December, and modifies what types of employment arrangements are acceptable under which a person that is not a licensed optometrist may employ an optometrist.

### **PHARMACISTS**

**House Bill No. 1054** addresses the regulation of pharmacists, pharmacies, pharmacy interns, and pharmacy technicians, including providing pharmacy permitholders and pharmacists must follow the State Board of Pharmacy's established procedures for closure of a pharmacy; increasing the board member per diem from \$20 per day to \$200 per day; and providing reporting requirements for actions of a pharmacist, pharmacy intern, or pharmacy technician which may be grounds for disciplinary action.

**House Bill No. 1256** provides for a legend drug donation and repository program to be administered by the State Board of Pharmacy.

**House Bill No. 1299** provides the pharmacist ownership requirements do not apply to a pharmacy permit applicant that is a hospital if the pharmacy for which the hospital seeks a permit is a retail pharmacy that is the sole provider of pharmacy services in the community and is a retail pharmacy that was in existence before the hospital took over operation.

**House Bill No. 1350** provides the pharmacist ownership requirements do not apply to a pharmacy permit applicant that is an owner of a postgraduate medical residency training program if the pharmacy for which permit is sought is collocated with and is run in direct conjunction with the postgraduate medical residency training program.

**House Bill No. 1455** directs the State Board of Pharmacy to license wholesale prescription drug distributors; directs the board to regulate wholesale distribution of prescription drugs; and provides that under certain circumstances, drug pedigrees must be provided to the person that receives the drug.

## **PLUMBERS**

**Senate Bill No. 2060** modifies the compensation levels for members of the State Board of Plumbing and changes the penalty provision for violation of the chapter regulating the practice of plumbing.

**House Bill No. 1019** amends Senate Bill No. 2060 to provide that violation of the State Plumbing Code is a Class B misdemeanor.

## **PRIVATE INVESTIGATORS**

**Senate Bill No. 2052** updates the language of persons exempt from the regulation of the Private Investigative and Security Board to refer to experts specializing in fire origin and cause investigations.

**Senate Bill No. 2062** provides that under specified conditions, a proprietary employer is exempt from the licensure requirements of the Private Investigative and Security Board and provides for voluntary registration of employees of proprietary security employees.

## **PROFESSIONAL EMPLOYER ORGANIZATIONS**

**Senate Bill No. 2036** directs the Secretary of State to license and regulate professional employer organizations that are in the practice of providing professional employer services, including designating what rights, duties, and obligations are affected by the law; providing requirements for licensure; providing financial capability requirements; and providing benefit plan requirements.

## **REAL ESTATE APPRAISERS**

**Senate Bill No. 2125** requires the Real Estate Appraiser Qualifications and Ethics Board to regulate certified general appraisers, certified residential appraisers, and appraiser apprentices.

## **REAL ESTATE SALESPERSONS**

**House Bill No. 1119** changes the Real Estate Commission title of secretary treasurer to executive director and provides the commission may license an organization of a salesperson or broker associate.

**Senate Bill No. 2343** provides the registration provisions of the Subdivided Lands Disposition Act do not apply to the sale or lease of any improved land on which there is a residential, commercial condominium, or industrial building or the sale or lease of land under a contract obligating the seller or lessor to erect such a building thereon within a period of two years.

**Senate Bill No. 2168** removes the statutory reference to the specific dollar amount that would be reasonable for the Real Estate Commission to pay for errors and omissions insurance coverage.

## **VETERINARIANS**

**House Bill No. 1052** updates the law regulating the practice of veterinary medicine, including updating reference to the American Veterinary Medicine Association and modifying the definition of the term "veterinarian-client-patient relationship."

**House Bill No. 1125** creates a loan repayment program for veterinarians through which veterinarians engaged in food animal veterinary medicine may qualify to have a portion of their student loans repaid for agreeing to practice in a selected community.

**Senate Bill No. 2056** repeals the section setting out the statement of purpose of the chapter regulating the practice of veterinary medicine.

## **WATER WELL CONTRACTORS**

**House Bill No. 1131** increases the membership of the State Board of Water Well Contractors to include a geothermal system driller and adds the practice of drilling geothermal systems to the activities and individuals regulated by the board.

## MISCELLANEOUS

**Senate Bill No. 2260** as part of a bill providing for comprehensive changes relating to criminal history checks, provides the State Board of Nursing may require criminal history record checks be conducted as part of initial or renewal licensure; provides the State Board of Pharmacy may conduct specified background investigations on applicants and licensees, including requiring criminal history checks; provides the Real Estate Commission may require criminal history record checks as part of initial or renewal licensure; and provides the Board of Social Work Examiners shall require new applicants and may require licensees to undergo criminal history record checks and to consent to a child abuse information index check.

## **TITLE 44**

### **Offices and Officers**

### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 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 notaries.

#### **PUBLIC OFFICERS**

**Senate Bill No. 2194** changes the time period during which a special election must be called upon filing a petition to recall an elected officer of a political subdivision from not sooner than 50 days nor later than 80 days following the certification of a valid recall petition to not sooner than 80 days nor later than 90 days following the certification of a valid recall petition. The bill changes the filing deadline for the nomination of candidates to an office at a recall election from the 33rd day before the election to the 60th day before the election. The bill also provides that a political subdivision official is not subject to recall if the official's office is to be on the ballot at a regularly scheduled election within one year.

**Senate Bill No. 2246** increases the lodging reimbursement for in-state lodging for state officers and employees from \$50 plus taxes to \$55 plus taxes.

**House Bill No. 1382** provides that an appointment may not be made to fill a vacancy in a public office if the vacancy occurs within 60 days before an election at which the vacancy may be filled.

**Senate Bill No. 2093** authorizes the director of the Office of Management and Budget, the State Board of Higher Education, the governing body of any political subdivision, and the board of any school district to establish and administer a purchasing card system for use by its officers, employees, representatives, or agents. The bill also authorizes the director of the Office of Management and Budget to designate the state agencies that are required to use the purchasing card system. The bill removes the requirement that travel expenses incurred more than five weeks in advance of the travel to meet necessary deadlines or to obtain low rates must be prepaid by the state.

#### **OPEN RECORDS**

**House Bill No. 1507** provides that the electronic mail address or telephone number of an individual which is provided to a public entity for the purpose of or in the course of communicating with that entity is an exempt record. The bill also provides that the exemption may not be used to shield the identity of the individual communicating with the entity.

**House Bill No. 1099** defines "commercial information," "financial information," "proprietary information," and "trade secret" for the purposes of the open records law. The bill also provides that the declaration of commercial information, financial information, proprietary information, and trade secrets as confidential does not limit the release or use of the records obtained in an investigation by the Attorney General or other law enforcement official. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on March 21, 2007.

**House Bill No. 1134** prohibits the followup information on North Dakota education and training system from releasing information provided to it for research or statistical purposes by a participating agency in any manner that identifies an individual, but allows the system to use personally identifiable information to prepare aggregate statistics that may be provided to a participating agency. The bill allows the system to provide personally identifiable information to a participating agency unless prohibited by state or

federal law and allows a participating agency to use the personally identifiable information to fulfill its obligations for state and federal statistical reporting.

**Senate Bill No. 2160** provides that the electronic mail address and estate planning information of a donor or prospective donor and correspondence received by the State Board of Higher Education, a University System officer or employee, or an affiliated nonprofit organization that provides support to and organized and operated for the benefit of an institution under the authority of the State Board of Higher Education is an exempt record. The bill provides that "financial information" includes data that provides details regarding a gift, a payment schedule of a gift, the form of a gift, or the specific amount of a gift made by a donor.

**Senate Bill No. 2265** provides that the address, telephone number, or any identifying information that, if released, could reasonably be used to locate a victim of domestic violence contained in any record maintained by a law enforcement facility is an exempt record. The bill provides that personal information of any person contained in an active or nonactive criminal intelligence and investigation file is an exempt record. The bill authorizes a public entity to require payment before locating or redacting a requested record. The bill authorizes the release of closed or confidential records to a federal agency for the purpose of law enforcement and authorizes the release of an individual's Social Security number by a public entity to another public entity or the agents, employees, or contractors of that public entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities.

### **NOTARIES**

**Senate Bill No. 2196** provides that when issuing a commission to a notary public, the Secretary of State must issue the commission in the individual's legal name. The bill authorizes the Secretary of State to require proof of a notary's legal name. The bill specifies the form of a notary's jurat. The bill prohibits a notary public from notarizing a signature on a document if the document is not drafted in English and is not accompanied by a permanently affixed and accurate English translation. The bill prohibits a notary public from making or purporting to make a copy of a vital record, recordable instrument, or public record containing an official seal and from notarizing a signature on a document if, unless otherwise provided by law, the document is a copy or certified copy of any vital record authorized or required by law to be registered or filed; the document is a copy or certified copy of an instrument entitled by law to be recorded; or the document is a copy or certified copy of a public record containing an official seal. The bill authorizes the Secretary of State to deny, revoke, or suspend a notary commission under specified circumstances or impose lesser sanctions.

**TITLE 45**  
**Partnerships**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 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. 1241** provides for extensive grammatical changes, technical clarifications, and substantive changes to the laws relating to business corporations, limited liability companies, nonprofit corporations, and real estate investment trusts. The bill clarifies the process for filing a partnership's annual report, modifies the process for filing amendments to a partnership's certificate of authority, modifies the process for executing a partnership's statement of renewal, and decreases the fee the Secretary of State charges for a certificate of certifying a copy or reciting facts related to a domestic limited liability partnership or foreign limited liability partnership.

**Senate Bill No. 2153** updates the laws relating to the Uniform Limited Partnership Act, the relation of partners to persons dealing with partnerships laws, the partnership conversions and mergers laws, the limited liability partnership laws, and limited liability limited partnership laws.

**House Bill No. 1035**, as part of adopting Revised Article 1 of the Uniform Commercial Code, updates statutory cross-references.

**TITLE 46**  
**Printing Laws**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 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.

**House Bill No. 1101** allows in-plant print shops to provide printing services for work done on plotters.

**Senate Bill No. 2094** allows in-plant print shops to perform printing services for work done on plotters and for jobs generated on computer printers which do not exceed 11 inches by 17 inches and 500 total image pages. The bill changes the state and political subdivision printing resident preference from a requirement that the printing be done in this state to that the printing must be awarded to a resident bidder, if practicable.

## **TITLE 47**

### **Property**

### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 47. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

**House Bill No. 1257** requires an operator of an oil or gas well to make royalty payments to those mineral interest owners whose title and ownership interest is not in dispute in the event of a dispute of title existing that otherwise would affect distribution of royalty payments.

**Senate Bill No. 2219** removes the requirement that instruments relating to condominium units describe the unit and the land.

**House Bill No. 1231** clarifies that nothing prohibits or limits the right of a seller of real estate to retain any payments associated with an existing wind energy product even though an interest in the production of wind energy may not be severed from the surface estate.

**Senate Bill No. 2221** clarifies that a claim of homestead by a debtor who received a discharge is a declaration of homestead and that filing a certified copy with the legal description of the discharge constitutes notice that a homestead is exempt from judgments.

**Senate Bill No. 2364** prohibits covenants running with the land or condominium restrictions prohibiting the outdoor display of a political yard sign.

**House Bill No. 1146** prohibits the severance from the surface estate the right of access for hunting.

**House Bill No. 1035** changes cross-references relating to consumer rental purchase agreements not being subject to the Uniform Commercial Code.

**House Bill No. 1058** removes the definition of last-known address of an apparent owner and removes the requirement of two weeks' publication of a list of abandoned property in a newspaper of general circulation to be consecutive.

**House Bill No. 1147** clarifies there is a month-to-month tenancy if a lessee of real property for residential purposes holds over and the lessor accepts rent. The bill provides that if a lessee does not initial a clause that requires more than one month's notice of termination of a lease of real property for residential purposes, the lease may be terminated on the last day of a month with at least one calendar month's notice. In addition, the bill allows either party to terminate a lease on the last day of a month with at least one calendar month's notice if a lease has converted to a month-to-month tenancy by law.

June 2007

**TITLE 48**  
**Public Buildings**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code (NDCC) Title 48. Bills primarily affecting other titles also affect this title, and relevant provision of those bills are summarized in this memorandum.

**House Bill No. 1033** revises statutory provisions relating to bidding and public improvement contracts and allows state and local governments to use the construction management delivery method.

**Senate Bill No. 2214** provides that a public authority that acquires property for the construction, alteration, extension, or improvement of a public improvement project through the use of eminent domain must follow the provisions of NDCC Chapter 32-15.

**Senate Bill No. 2090** increases from \$50,000 to \$100,000 per biennium the amount of expenditures allowed by the Capitol Grounds Planning Commission from the interest and income of the Capitol building fund for projects or planning.

## **TITLE 49**

### **Public Utilities**

### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 49. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to public utilities may be classified in these subject areas: railroads; telecommunications; electricity; and miscellaneous.

#### **RAILROADS**

**Senate Bill No. 2368** voids any provision of an agreement relating to the use or occupancy of railroad right of way which provides that this state's law on indemnification does not apply.

**Senate Bill No. 2188** requires a railroad corporation to provide immediate notice to the Department of Emergency Services of an accidental release of a hazardous material. In addition, the bill requires a Legislative Council study of risk assessments for railroad facilities, the handling of hazardous cargo by railroads, and the ability of railroads to respond to potential accidents and emergencies.

#### **TELECOMMUNICATIONS**

**House Bill No. 1143** allows the Public Service Commission to provide suspensions or modifications to rural telephone companies under the Telecommunications Act of 1996.

**House Bill No. 1142** increases from 8,000 to 18,000 local exchange subscribers the number of subscribers that a telecommunications company can have fewer than and not be regulated by the Public Service Commission for most matters.

#### **ELECTRICITY**

**House Bill No. 1317** allows the Public Service Commission to adopt rules governing the decommissioning of a commercial wind energy conversion facility.

**House Bill No. 1193** includes hydroelectric energy within the definition of renewable electric and recycled energy for purposes of renewable electricity and recycled energy credit trading.

**House Bill No. 1315** requires commercial electric generation facilities to comply with the standards of the National Electric Safety Code.

**House Bill No. 1221** provides for expedited cost recovery for public utilities to comply with federal environmental mandates on existing electricity generating stations.

**Senate Bill No. 2031** provides for expedited rate recovery for public utilities to recover jurisdictional capital and operating costs for new or modified electric transmission facilities.

**House Bill No. 1506** establishes a state renewable and recycled energy objective that 10 percent of all electricity sold at retail within the state by the year 2015 be obtained from renewable energy and recycled energy sources with special provisions for hydroelectric facilities and renewable electricity and recycled energy credits.

#### **MISCELLANEOUS**

**Senate Bill No. 2214** excludes economic development from the public purposes that may be used for eminent domain as it applies to railroads and pipeline carriers.

**House Bill No. 1127** exempts materials submitted to the North Dakota Transmission Authority that contain trade secrets or commercial, financial, or proprietary information from public open records laws. The bill requires the authority to provide an annual report to the Industrial Commission detailing activities and expenditures incurred during the preceding year. In addition, the bill broadens the class of people the authority may consult in establishing reasonable fees, rates, tariffs, or other charges for transmission facilities and services offered by the authority.

**Senate Bill No. 2028** removes the duty on the Public Service Commission to report annually to the Budget Section with respect to payments received and expenditures made from the performance assurance fund.

**Senate Bill No. 2008** increases the salary of each public service commissioner from \$75,576 to \$78,590 through June 30, 2008, and \$81,743 after that date.

**TITLE 50**  
**Public Welfare**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code (NDCC) Title 50. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

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

**DEPARTMENT OF HUMAN SERVICES PROGRAMS**

**House Bill No. 1351** provides that the Department of Human Services has a preferred claim on the death of any recipient of medical assistance if the recipient was a resident of a nursing facility, intermediate care facility for the mentally retarded, or other medical institution and the department had determined that the resident reasonably was not expected to be discharged from the medical institution and return home.

**House Bill No. 1422** extends the expiration date to July 31, 2009, for the portion of the prior authorization program that provides that the Department of Human Services may not prior authorize or otherwise restrict single-source or brand name antipsychotic, antidepressant, or other medications used to treat mental illnesses and drugs prescribed for the treatment of AIDS, HIV, or cancer.

**House Bill No. 1463** expands the eligibility for medical assistance for children to individuals from birth through age 18 and expands the income level for eligibility for the children's health insurance program to 150 percent of the poverty line.

**Senate Bill No. 2012** removes a cross-reference to NDCC Chapter 50-10, a chapter relating to aid to crippled children, which is repealed by the bill. The bill also provides that, with respect to guardianship services, the guardianship services base unit funding level must be at the same level as developmental disability corporate guardianship rates.

**Senate Bill No. 2069** relates to the eligibility for the children's health insurance program. The bill provides that the adjusted gross income of self-employed applicants must be based upon the previous year's federal income tax return; however, if that return has not been filed, the return for the year prior to that year may be used.

**Senate Bill No. 2071** provides that, for the purpose of medical assistance eligibility, annuities purchased on or after February 8, 2006, or the selection or alteration on or after February 8, 2006, of a payment option for an annuity purchased at any time, is a disqualifying transfer of an asset unless certain conditions are met including that the state is named as the remainder beneficiary in the first position for at least the total amount of medical assistance paid on behalf of the annuitant or the state is named in the second position after the community spouse or minor or disabled child.

**Senate Bill No. 2124** gives certain Medicare Part D payments made on behalf of a medical assistance recipient priority over the medical assistance recovery claim. In addition, the bill provides that any assets disregarded because of a long-term care insurance partnership program policy are protected from medical assistance estate recovery. The bill, with respect to assets subject to medical assistance estate recovery, creates a presumption that all assets in the estate of the spouse are assets in which the medical assistance recipient had an interest at the time of the recipient's death. Under the bill, the estate of the spouse could rebut the presumption with proof that the recipient did not have an interest in those

assets. The bill also repeals NDCC Sections 50-24.1-02.9 and 50-24.1-21, which relate to long-term care insurance and medical assistance waiver provisions that are inconsistent with federal law.

**Senate Bill No. 2131** requires health insurers, as a condition of doing business in this state, to provide to the Department of Human Services information about individuals who are eligible for medical assistance to enable the department to determine during what period the individual or the individual's spouse or dependents may be or may have been covered by a health insurer and the nature of the coverage provided by the health insurer.

**Senate Bill No. 2132** authorizes the Department of Human Services, for purposes of medical assistance, to seek recovery of reimbursement from a third party up to the full amount of the medical assistance paid. The bill defines a third party as an individual, entity, or program that is or may be liable to pay all or part of the expenditures for medical assistance furnished by the state.

**Senate Bill No. 2326** directs the Department of Human Services to establish and implement a buyin program under the federal Family Opportunity Act to provide medical assistance and other health coverage options to families of children with disabilities and whose net income does not exceed 200 percent of the federal poverty line.

### **CHILD SUPPORT ENFORCEMENT**

**Senate Bill No. 2129** relates to child support enforcement issues. The bill provides that any record of a child support obligation that is currently being enforced in another jurisdiction and not by a child support agency, or which is owed by an obligor who is deceased, may be removed indefinitely from the statewide automated data processing system until a request is received from a party to the child support case to restore those records. The bill also requires an insurer to exchange health insurance information with the Department of Human Services for the purpose of establishing or enforcing a medical support obligation.

**Senate Bill No. 2205** provides that the state agency, which is defined as the Department of Human Services, is authorized to employ attorneys to carry out its duties in administering the child support enforcement and medical support enforcement programs. The bill provides that any attorney who represents the state agency must be a special assistant attorney general appointed by the Attorney General. The bill also authorizes the state agency, in administering the child support enforcement and medical support enforcement programs, to contract with any public or private agency or person to discharge the state agency's duties and must maintain an office in each of the eight planning regions of the state.

### **CHILD ABUSE AND NEGLECT**

**Senate Bill No. 2100** adds juvenile court personnel, probation officers, and Division of Juvenile Services employees to the list of individuals who are required to report actual or suspected child abuse or neglect. The bill also adds school counselors and Division of Juvenile Services employees to the individuals required to disclose records of that entity upon the request of a coroner or the presiding officer of a child fatality review panel. The bill requires regional human service centers, when requested, to disclose to the Department of Human Services the records of a patient or client which are relevant to an assessment of reported child abuse or neglect.

### **CHILD CARE FACILITIES**

**Senate Bill No. 2186** directs the Department of Human Services to establish a program of transition assistance to pay a portion of the cost of child care for families that lose eligibility, and remain ineligible, for benefits due to earnings from employment. The bill also authorizes the department to establish a statewide system to build systematic early childhood workforce voluntary training that may include distance-learning formats, a professional registry, certificates, and specializations.

## LONG-TERM CARE AND RELATED FACILITIES

**Senate Bill No. 2066** removes the expiration date on the moratorium on the expansion of residential child care facility or group home bed capacity.

**Senate Bill No. 2068** limits the establishment of a geropsychiatric unit within a nursing home. The bill provides that only two nursing homes within the state may have a unit that exclusively provides geropsychiatric services and no more than one geropsychiatric unit may be located in any one nursing home. The bill also contains conditions that must be met before a patient may be admitted to a geropsychiatric unit.

**Senate Bill No. 2070** directs the Department of Human Services to seek federal funds for the planning and implementation of an aging and disability resource center for the state.

**Senate Bill No. 2133** directs the Department of Human Services to provide an attendant care program to permit health maintenance services to be provided by nonlicensed care providers. The bill provides that health maintenance services means care that enables an individual to live at home and which is based upon the determination of a physician who concludes that the individual is medically stable and is competent to direct the care provided by a nonlicensed care provider.

**Senate Bill No. 2167** relates to the licensure requirements of assisted living facilities. The bill provides that if there is a change in ownership of an assisted living facility that possessed a valid license issued before August 1, 2005, the Department of Human Services is directed to allow a continuance of the exception to the licensure requirements for the new owner. The bill provides that the continuance applies only to the first change in ownership after July 31, 2005, and does not apply to any subsequent change in ownership.

## MISCELLANEOUS

**House Bill No. 1390** requires the Department of Human Services to provide liability coverage for acts or omissions of foster children placed in the care of foster families.

**Senate Bill No. 2134** repeals NDCC Section 50-06-27, which provided for a prescription drug monitoring program. The program is being replaced by a prescription drug monitoring program, the summary for which is contained in the summary for Title 19.

**Senate Bill No. 2136** directs the executive director of the Department of Human Services and the director of the Department of Corrections and Rehabilitation to enter an interagency agreement that must provide that the Department of Corrections and Rehabilitation is required to train, consult, and assist the Department of Human Services with the provision and enforcement of safety and security procedures at state-owned facilities for all individuals placed at those facilities for evaluation or civil commitment and treatment. The interagency agreement must provide that the executive director of the Department of Human Services is to continue to be responsible for the custody and care of the individuals placed at those facilities for evaluation or civil commitment.

**Senate Bill No. 2260** relates to criminal history background checks. The bill requires criminal history background checks for individuals providing foster care for children. The bill also requires criminal history background checks for individuals who are appointed as legal guardians under NDCC Chapter 27-20 and for any adult who is living in a prospective adoptive parent's home.

**Senate Bill No. 2312** removes the expiration date on the alternatives-to-abortion services program. The bill also directs the Department of Human Services to disburse funds available through Title IV-A of the Social Security Act to nongovernmental entities that provide alternatives-to-abortion services and expend funds to inform the public about this program.

**Senate Bill No. 2359** changes the name of the "maternity home for unmarried mothers" to the "maternity home." The bill also provides that any person that operates a maternity home is required to secure a license from the Department of Human Services at least once every two years rather than annually.

June 2007

## **TITLE 51**

### **Sales and Exchanges**

### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 51. Bills primarily affecting other titles may also affect this title, and relevant provisions of those bills are summarized in this memorandum.

**House Bill No. 1417** provides the procedure by which a consumer may place a security freeze on the consumer's consumer credit file.

**Senate Bill No. 2040**, as part of the deceptive acts and practices law, provides it is a prohibited act to provide assistance or support to a person engaged in an act or practice in violation of the deceptive acts and practices law.

**Senate Bill No. 2266**, as part of the deceptive acts and practices law, provides it is a prohibited act to offer a check that contains an obligation to advertise with a person upon the endorsement of the check or to bill a person for goods not yet ordered or for services not yet performed and not yet ordered.

**House Bill No. 1507**, as part of the electronic mail consumer protection law, provides it is a Class C felony to make an untrue communication that is calculated to mislead and which is made to induce, request, or solicit property or identifying information; provides it is a Class C felony to create a web page that falsely represents and may induce a user to provide property or identifying information; and provides it is a Class C felony to alter the settings on a user's computer or software program through which the user may search the Internet and may mislead and induce the user to provide property or identifying information.

**Senate Bill No. 2195** clarifies that for purposes of the telephone solicitations law a message includes voice, text, or other electronic communication and that a telephone line means a telephone service to a subscriber, regardless of the technology used to provide the service.

**Senate Bill No. 2255** provides a person may not procure, attempt to procure, solicit, or conspire with another to procure a telephone record of any resident of this state without the authorization of the customer or by fraudulent, deceptive, or false means; sell or attempt to sell a telephone record of any resident of this state without the customer's authorization; or receive a telephone record of any resident of this state when the record has been obtained without the customer's authorization or by fraudulent, deceptive, or false means.

**TITLE 52**  
**Social Security**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 52. 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 Social Security may be classified in these subject areas: unemployment insurance and Job Service North Dakota.

**UNEMPLOYMENT INSURANCE**

**House Bill No. 1056** provides money in the federal advance interest repayment fund may be used for the purposes of reemployment programs to ensure the integrity of the unemployment insurance program in this state.

**House Bill No. 1057** requires employers that employ more than 99 employees to file Job Service North Dakota contribution and wage reports by an electronic method.

**House Bill No. 1278** modifies the construction project risk protection as it relates to the unemployment insurance trust fund by requiring general and prime contractors working on large projects to have a bond or letter of credit to cover the shortfalls that may occur, while excluding design and engineering firms from the reporting requirements of the bonding process.

**House Bill No. 1413** adjusts the unemployment insurance tax rate structure, including allowing for a more equitable distribution of rates according to risk to the unemployment insurance trust fund while allowing for more equitable rates for employers.

**Senate Bill No. 2035** changes the calculation of the unemployment insurance tax rates, providing for a minimum multiplier of 100 percent for all rates within the negative tax rate structure.

**JOB SERVICE NORTH DAKOTA**

**House Bill No. 1016** under the new jobs training program increases the minimum required employee income requirement from \$7.50 to \$10 per hour.

**House Bill No. 1134** updates a reference to the North Dakota Occupational Information Coordinating Committee to the followup information on North Dakota education and training (FINET) system.

## **TITLE 53**

### **Sports and Amusements**

### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 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: horse racing; charitable gaming; lottery; and miscellaneous.

#### **HORSE RACING**

**House Bill No. 1126** establishes the racing promotion fund as a fund administered by the Racing Commission to assist in improving and upgrading racetracks in the state and promoting horse racing; imposes duties upon the Racing Commission; requires the approval of the Attorney General before a license to conduct races may be granted; modifies the current tax structure for live horse racing and simulcast wagering; and authorizes the Attorney General to audit and investigate service providers, totalizator companies, site operators, and organizations applying to conduct or conducting parimutuel wagering.

**House Bill No. 1324** provides that the Racing Commission is required to provide for registration of a North Dakota-bred horse for qualification for breeders' fund awards or purse supplements. The bill requires the commission to contract with a private person to maintain the registry. The bill also prohibits the commission from transferring money among the breeders' fund, the purse fund, and the racing promotion fund. The bill requires the commission to distribute awards and payment supplements from the breeders' fund in the same calendar year the money was earned by the recipient.

**Senate Bill No. 2260** authorizes the Racing Commission, for the purpose of licensing a participant in the racing and simulcast parimutuel wagering industry, to obtain a statewide and nationwide criminal history record check.

#### **CHARITABLE GAMING**

**House Bill No. 1263** changes the maximum cash raffle prize amount that may be awarded in a single day from \$1,000 to \$4,000. The bill also increases from one to two the number of occasions per year which a licensed organization may exchange a merchandise prize for a cash prize.

**Senate Bill No. 2225** replaces the sales and use tax on bingo cards with an excise tax of 3 percent on the gross proceeds from the sale at retail of bingo cards to final users.

#### **LOTTERY**

**House Bill No. 1330** relates to the lottery operating fund. The bill provides that starting July 1, 2007, \$150,625 must be transferred to the State Treasurer each quarter for deposit in the Attorney General Multijurisdictional Drug Task Force grant fund.

**Senate Bill No. 2101** makes miscellaneous changes to the state's lottery laws. The bill authorizes lottery retailers to sell a ticket at a temporary site for a special event authorized by the lottery. The bill clarifies that a prize may not be paid on a winning ticket if the ticket was purchased using a stolen lottery gift certificate or otherwise acquired illegally. The bill provides that personal information on a player who purchases a subscription or a player who wins a prize on a winning ticket is confidential unless the player authorizes the release of the information.

## **MISCELLANEOUS**

**House Bill No. 1201** changes from 1 percent to 3 percent the fee that the Secretary of State may establish on the percentage of gross revenues from any boxing, kickboxing, mixed fighting style competition, or sparring exhibition held in this state.

**TITLE 54**  
**State Government**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code (NDCC) 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. 1104** removes the July 31, 2007, expiration date from a provision that eliminates 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.

**STATE EMBLEMS, SYMBOLS, AND AWARDS**

**Senate Bill No. 2145** declares the chokecherry as the official fruit of the state.

**LEGISLATIVE ASSEMBLY**

**House Bill No. 1106** increases the compensation of members of the Legislative Assembly for services during a legislative session from \$125 per day to \$130 effective July 1, 2007, and to \$135 effective July 1, 2008. The bill increases the monthly biennium compensation for members of the Legislative Assembly from \$350 per month to \$364 effective July 1, 2007, and to \$378 effective July 1, 2008. The bill increases the compensation for attendance at Legislative Council and interim committee meetings from \$100 per day to \$104 effective July 1, 2007, and to \$108 effective July 1, 2008.

**House Bill No. 1001** increases the monthly pay of the majority and minority leaders of the Senate and the House of Representatives from \$250 to \$260 on July 1, 2007, and to \$270 on July 1, 2008. The bill also increases the compensation for attendance at Legislative Council and interim committee meetings from \$100 per day to \$135 per day effective July 1, 2009.

**Senate Bill No. 2310** authorizes the Legislative Assembly or either house of the Legislative Assembly to accept donations of funds. The bill provides that any funds received as a donation may be expended by the Legislative Assembly by concurrent resolution or the appropriate house upon motion. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on April 10, 2007.

**STATE EMPLOYEES AND OFFICERS**

**House Bill No. 1107** increases the mileage reimbursement for state officials and employees from 37.5 cents to 45 cents per mile.

**GOVERNOR AND LIEUTENANT GOVERNOR**

**Senate Bill No. 2001** increases the salary of the Governor from \$92,483 to \$96,183 through June 30, 2008, and to \$100,031 thereafter. The bill increases the salary of the Lieutenant Governor from \$71,797 to \$74,668 through June 30, 2008, and to \$77,655 thereafter. The bill also transfers the Office of Faith-Based and Community Initiatives from the Governor's office to the Department of Commerce.

**Senate Bill No. 2276** requires the Governor's Prevention and Advisory Council to contract with or grant funds to entities to discourage impaired driving and alcohol and drug abuse by minors. The bill authorizes the council to accept grants and gifts from any source and appropriates those funds on a continuing basis. The bill also appropriates \$100,000 from the community health trust fund to the Governor for the purposes of the Prevention and Advisory Council.

## SECRETARY OF STATE

**Senate Bill No. 2002** increases the salary of the Secretary of State from \$73,568 to \$76,511 through June 30, 2008, and to \$79,571 thereafter.

**Senate Bill No. 2153** increases from \$20 to \$25 the fee for filing any process, notice, or demand of service with respect to the North Dakota Registered Agents Act. The bill also specifies the procedure for service of process on the Secretary of State under the North Dakota Registered Agents Act.

**House Bill No. 1340** provides that 10 percent of the fees received by the Secretary of State for filing records of a publicly traded corporation must be deposited in the Secretary of State's general services operating fund to pay the cost to administer the provisions of the North Dakota Publicly Traded Corporations Act.

## STATE AUDITOR

**Senate Bill No. 2053** removes the requirement that the State Auditor notify the governing body of a political subdivision of the date, time, and location of a test conducted in connection with a review and assessment of computer systems or related security systems. The bill authorizes the executive officer of a state agency to appoint a designee to attend and observe any test during which confidential information may be accessed or controlled. The bill also authorizes a state agency receiving federal tax information, in conjunction with the State Auditor, to enter a contract with a vendor selected by the State Auditor to conduct a review and assessment of the state agency's computer systems and related security systems, including an assessment of system vulnerability, network penetration, potential security breach, and susceptibility to cyber attack or cyber fraud.

**House Bill No. 1318** removes the requirement that the State Auditor conduct information technology compliance reviews and monitor major information technology projects for compliance with project management and information technology standards and policies and makes those responsibilities discretionary for the State Auditor.

**Senate Bill No. 2004** increases the salary of the State Auditor from \$73,568 to \$76,511 through June 30, 2008, and to \$79,571 thereafter.

## STATE TREASURER

**Senate Bill No. 2005** increases the salary of the State Treasurer from \$69,474 to \$72,253 through June 30, 2008, and to \$75,143 thereafter.

## ATTORNEY GENERAL

**Senate Bill No. 2003** increases the salary of the Attorney General from \$80,761 to \$83,991 through June 30, 2008, and to \$87,351 thereafter. The bill also authorizes the Criminal Justice Information Sharing Board to appoint and employ a director and authorizes the director to employ other personnel. The bill authorizes the director to contract with the Bureau of Criminal Investigation for the processing of federal fingerprint identification.

**House Bill No. 1330** authorizes the Attorney General to establish a Multijurisdictional Drug Task Force grant fund and requires the State Treasurer to transfer to the fund \$105,625 each quarter, starting July 1, 2007. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on May 1, 2007.

**Senate Bill No. 2098** repeals statutory provisions relating to the development of a block house program by the Attorney General.

**House Bill No. 1092** changes references from the juvenile supervisor to the director of juvenile court with respect to judicial officers that the Attorney General is required to defend in an action founded upon an act or omission arising out of the performance of an official duty.

## INDUSTRIAL COMMISSION

**Senate Bill No. 2288** establishes a Renewable Energy Council and renewable energy fund and requires the Industrial Commission to consult with the council in matters of policy affecting the administration of the renewable energy development fund. The bill authorizes the Industrial Commission to provide financial assistance and provide other incentives for a variety of renewable energy studies and technologies.

**House Bill No. 1515** authorizes the Industrial Commission to establish an incentive program to assist the agricultural community to demonstrate the production, harvest, storage, and delivery of a biomass feedstock on a commercial scale to a private sector end user. The bill provides that the authorization is effective if Senate Bill No. 2288 does not become effective. The bill provides that if Senate Bill No. 2288 becomes effective, the Industrial Commission, in coordination with the Renewable Energy Council, may establish the biomass incentive and research program. The bill also establishes a biomass incentive and research fund.

**House Bill No. 1503** extends the effective date of the tribal-state guaranty program from June 30, 2007, to July 31, 2011.

**Senate Bill No. 2214** provides that when the Industrial Commission acquires property through the exercise of eminent domain, the acquisition must be done subject to NDCC Chapter 32-15.

**House Bill No. 1060** provides for the establishment of a geologic data preservation fund to be used to defray the expenses of preserving geologic data compiled by the Industrial Commission and disseminating the data to county, state, and federal departments and agencies and members of the general public. The bill also provides that provisions in NDCC Title 38 authorizing the Industrial Commission to perform well and hole pluggings, reclamation work, equipment removal, leak prevention, and similar work are not subject to the state purchasing practices under Chapter 50-44.4.

**House Bill No. 1127** authorizes the Industrial Commission to borrow money in an amount not to exceed \$6 million from the Bank of North Dakota for a period not to exceed five years on the terms and conditions as the Bank of North Dakota and the Industrial Commission may approve without the necessity of establishing or maintaining any reserve fund as otherwise required for evidences of indebtedness issued with respect to activities of the Lignite Research Council. The bill provides that a request to have material designated as confidential which is received by the Industrial Commission and which consists of trade secrets or the commercial, financial, or proprietary information of individuals or entities applying to or contracting with the Industrial Commission or receiving Industrial Commission services is exempt from open records requirements. The bill also provides that procurements through a contract or other instrument executed by the Industrial Commission under NDCC Chapter 49-24 are not subject to state purchasing requirements.

**House Bill No. 1439** increases the membership of the Oil and Gas Research Council from seven members to eight members by adding as a member the president of the Northern Alliance of Independent Producers or the designee of the president.

**House Bill No. 1128** establishes a North Dakota Pipeline Authority to be governed by the Industrial Commission. The bill enumerates the powers of the pipeline authority and authorizes the Industrial Commission to issue evidences of indebtedness. The bill provides that until sold or disposed by the pipeline authority, the authority and the pipeline facilities are exempt from certain regulations of the Public Service Commission. The bill requires the pipeline authority to report to the Legislative Council during each biennium and exempts procurements of the authority from the state purchasing practices provisions. The bill provides that federal or state assistance for the oil and gas research, development, and marketing program established for the Oil and Gas Research Council are not considered business incentives for the purposes of NDCC Chapter 54-60.1. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on April 11, 2007.

**Senate Bill No. 2077** provides that the North Dakota Pipeline Authority and pipeline facilities built by the authority are subject to Public Service Commission jurisdiction with respect to violations of pipeline safety standards.

### **NORTH DAKOTA LIBRARIES**

**House Bill No. 1309** requires the State Library to withhold from the amount of state aid to which a public library is entitled during the 2007-09 biennium any amount the public library received in excess of that to which the library was entitled during the 2005-07 biennium, as a result of a statutory dispute regarding the meaning of a mill levy. The bill also requires the State Library, from the amounts withheld during the biennium, to provide to each public library that received less than the amount to which it was entitled during the 2005-07 biennium, the difference between the amount the library received during the 2005-07 biennium and the amount that it would have received, but for the statutory dispute regarding the meaning of a mill levy. The bill is effective through June 30, 2009.

**House Bill No. 1103** provides that a public library is not eligible to receive state aid to public library funds during a fiscal year if the governing body has diminished, from the average of the three preceding fiscal years, the appropriation, in dollars, derived from the mill levy for public library services. The bill provides that if a governing body is levying the maximum number of mills it may levy without having an election to increase the mill levy and the appropriation is diminished below the average of the three preceding fiscal years solely because of a reduction in the taxable valuation, the public library is eligible to receive state aid funds. The bill repeals a statutory provision which deemed a public library ineligible to receive state aid funds if the governing body has diminished the mill levy on taxable valuation below the average of the three preceding fiscal years or the appropriation for public services below an amount equal to the revenue derived from the maximum mill levy for public library services. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on March 8, 2007.

**Senate Bill No. 2061** revises a provision requiring the state librarian to compile statistics on North Dakota libraries to provide that the statistics must be compiled on all public libraries in the state.

### **BUDGET STABILIZATION FUND**

**House Bill No. 1429** provides that effective July 1, 2009, any amounts provided by law for deposit in the budget stabilization fund and any interest or earnings of the fund which would bring the balance in the fund to an amount greater than 10 percent of the current biennial state general fund budget may not be deposited or retained in the fund but must be deposited instead in the state general fund. Currently the threshold is any amount greater than 5 percent.

### **LEGISLATIVE COUNCIL**

**Senate Bill No. 2028** removes the statutory requirement for reports to the Budget Section regarding the use of the State Forester reserve account, duplicative payments and transfers to the state tuition fund, status of the performance assurance fund, the Department of Commerce's Internet web site for career guidance and job opportunities, and the status of the Workforce Safety and Insurance building maintenance account. The bill also removes the statutory requirement for annual reports to the Legislative Audit and Fiscal Review Committee by the Information Technology Department.

**House Bill No. 1028** creates an Energy Development and Transmission Committee of the Legislative Council to study each facet of the energy industry. The bill is effective through August 1, 2011.

**House Bill No. 1462** requires the Energy Development and Transmission Committee of the Legislative Council to study the impact of a comprehensive energy policy for the state. The bill also provides that the committee may study the taxation of shallow gas to reduce energy costs.

**Senate Bill No. 2030** repeals the requirement that the Legislative Council appoint an interim No Child Left Behind Committee.

**House Bill No. 1156** removes the July 31, 2007, expiration date of the Workers' Compensation Review Committee.

**Senate Bill No. 2402** changes the expiration date of the Committee on Tribal and State Relations from July 31, 2007, to July 31, 2009. The bill also provides that if the executive director of the Indian Affairs Commission or any of the tribal chairmen appoints a designee to serve on the Native American Tribal Citizens' Task Force, only one individual may serve as that designee during the biennium but allows a substitute designee to be appointed by the executive director of the Indian Affairs Commission or a tribal chairman in the event of the death, incapacity, resignation, or refusal to serve of the initial designee.

### **INDIAN AFFAIRS COMMISSION**

**House Bill No. 1098** reduces the number of members of the Indian Affairs Commission appointed by the Governor from four to three and reduces from three members to two members who must be of Indian descent and must be enrolled members of a tribe. The bill also adds as a member of the commission the chairman or the chairman's designee of the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation.

### **OFFICE OF MANAGEMENT AND BUDGET**

**House Bill No. 1031** continues the requirement that the budget request for the North Dakota University System include budget estimates for block grants for a base funding component, an initiative funding component, and an asset funding component, and continues the requirement that the appropriation for the University System include block grants for a base funding appropriation, an initiative funding appropriation, and an asset funding appropriation through June 30, 2009. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on March 8, 2007.

**House Bill No. 1032** continues through June 30, 2009, the North Dakota University System authority to carry over at the end of the biennium unspent general fund appropriations. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on March 8, 2007.

**Senate Bill No. 2321** allows a political subdivision subject to the merit system established under NDCC Chapter 54-44.3 to file a request with North Dakota Human Resource Management Services to be exempted from the merit system. The bill requires that the request describe a plan and a policy that assures the political subdivision has developed a merit system plan that meets federal standards for personnel administration. The bill requires the director of the Department of Human Services and Human Resource Management Services to authorize the political subdivision plan within 60 days of receiving a request if the plan and policies meet federal requirements. The bill also requires Human Resource Management Services and the Department of Human Services to develop oversight and audit procedures for political subdivision merit plans to assure compliance with federal merit system principles.

**House Bill No. 1483** requires the Office of Management and Budget, in coordination with the State Board of Higher Education, to develop guidelines for a biobased procurement program. The bill encourages the Office of Management and Budget, the institutions of higher education, and any other state agency or institution that has authority to purchase products to purchase environmentally preferable products and, where practicable, specify biobased products. The bill becomes effective on July 1, 2008.

**Senate Bill No. 2093** removes statutory language relating to the establishment and administration of a system of procurement for small purchases and a reference to the establishment of a purchasing card system.

**Senate Bill No. 2019** authorizes the International Peace Garden to participate in the procurement program administered by the Office of Management and Budget.

**House Bill No. 1102** increases from \$20,000 to \$50,000 the maximum amount of fees that may be paid during a 12-month period immediately preceding negotiation of a contract by a single state agency for professional services performed by any one architectural, engineering, or land surveying person or firm. The bill increases from \$10,000 to \$25,000 the maximum amount of fees estimated for architect, engineer, construction management, or land surveying services for a project for which a state agency may secure the services by direct negotiation and selection.

## **PUBLIC EMPLOYEES RETIREMENT SYSTEM**

**House Bill No. 1078** allows an employee of the State Board for Career and Technical Education the option to transfer from the Teachers' Fund for Retirement to the Public Employees Retirement System by 5:00 p.m. on August 31, 2007, and allows future employees hired by the State Board for Career and Technical Education to elect to join the Public Employees Retirement System rather than the Teachers' Fund for Retirement. The bill provides that for those employees who elect to transfer to the Public Employees Retirement System, the Teachers' Fund for Retirement must move the employee's service, account balance, and pay and contribution history to the Public Employees Retirement System and the Public Employees Retirement System becomes responsible for any benefits due based on each employee's service.

**Senate Bill No. 2044** provides that a retiree of the Public Employees Retirement System defined benefit retirement plan is to receive an additional one-time payment equal to 75 percent of the retiree's monthly retirement benefit in either January 2008 or January 2009 if the total return on the fund is 9.06 percent or higher in the preceding actuarial report. The bill also provides that a retiree of the judges' retirement system is to receive a payment adjustment of 2 percent of the individual's retirement benefit in January 2008 and January 2009 if the Public Employees Retirement Board determines there is actuarial margins sufficient to pay the increases.

**Senate Bill No. 2045** allows a separate prescription drug plan to be provided for retirees due to the establishment of the federal Medicaid Part D prescription drug program. The bill allows the retiree health credit for employees and spouses, who are also state employees, to be combined. The bill requires temporary employees to work a minimum of 20 hours per week and at least 20 weeks per year to be eligible to participate in the uniform group insurance program. The bill also allows a temporary employee's employer to determine whether the temporary employee or the employer will pay the monthly premium for the health insurance coverage.

**House Bill No. 1432** authorizes the Public Employees Retirement System Board to establish a collaborative drug therapy program available to individuals in the medical and hospital benefits coverage group to improve the health of individuals in identified health populations and to manage health care expenditures. The bill authorizes the board to seek and accept private contributions, gifts, and grants-in-aid from the federal government, private industry, and other sources for the collaborative drug therapy program.

**House Bill No. 1433** requires the Public Employees Retirement System Board to establish a collaborative drug therapy program to be available to individuals in the medical and hospital benefits coverage group. The bill provides that the purpose of the program is to improve the health of individuals with diabetes and to manage health care expenditures.

**House Bill No. 1179** requires the Garrison Diversion Conservancy District and district health units that are required to participate in the Public Employees Retirement System to participate in the uniform group insurance program under the same terms and conditions as state agencies.

**Senate Bill No. 2047** provides for an automatic enrollment process for new employees in the deferred compensation program at \$25 per month unless the employee elects not to participate. The Governor vetoed the bill after the conclusion of the legislative session.

## **UPPER GREAT PLAINS TRANSPORTATION INSTITUTE**

**House Bill No. 1065** changes the membership of the Upper Great Plains Transportation Institute Advisory Transportation Council to include a representative of the North Dakota Association of Counties, the North Dakota League of Cities, and the Lignite Energy Council. The bill also changed a reference in the membership of the council to reflect the name change of the Greater North Dakota Association to the North Dakota Chamber of Commerce.

## INFORMATION TECHNOLOGY DEPARTMENT

**Senate Bill No. 2037** provides that the Chief Information Officer may require information technology contractors to submit to a criminal history record check; authorizes the Information Technology Committee to receive and review project startup and project closeout reports for major information technology projects of an executive branch agency or the State Board of Higher Education; authorizes the Information Technology Department to request and review information regarding any information technology project of an executive branch agency with a total cost between \$100,000 and \$250,000 as determined by the department; revises the contents of the statewide information technology plan and the Information Technology Department annual report; and requires the Information Technology Department, at the direction of the Criminal Justice Information Sharing Board, to maintain a criminal justice data information sharing system to facilitate the exchange of criminal justice information among judicial, law enforcement, and emergency personnel.

**Senate Bill No. 2038** requires the Legislative Council's Information Technology Committee to receive a report from the Chief Information Officer regarding the recommendations of the State Information Technology Advisory Committee relating to the prioritization of proposed major information technology projects and other information technology issues. The bill authorizes the Chief Information Officer to exempt an agency from the information technology policies, standards, and guidelines to address situations unique to the agency. The bill requires the Information Technology Advisory Committee to review policies, standards, and guidelines developed by the Information Technology Department, and requires the Chief Information Officer to submit recommendations of the committee regarding information technology issues to the Information Technology Committee for its consideration. The bill requires the State Information Technology Advisory Committee to review major information technology projects submitted to it by the Information Technology Department and rank the projects that receive the committee's affirmative recommendation.

**House Bill No. 1021** authorizes the Information Technology Department, upon approval of the Emergency Commission, to borrow from the Bank of North Dakota an amount necessary to pay telecommunications costs for connecting approved schools and libraries if e-rate funding is not received by the department from the Schools and Libraries Division of the Universal Service Administrative Company. The bill also requires the Information Technology Committee to receive and review information, including a project startup report summarizing the project description, project objectives, business need or problem, cost-benefit analysis, and project risks and a project closeout report summarizing the project objectives achieved, project budget and schedule variances, and lessons learned, from the affected legislative or judicial branch agency regarding any information technology project of the legislative or judicial branch with a total cost of \$250,000 or more.

**House Bill No. 1461** requires the Legislative Council's Information Technology Committee to receive information from the State Board of Higher Education regarding higher education information technology planning, services, and major projects. The bill requires the Information Technology Department to collaborate with the State Board of Higher Education on guidelines for reports to be provided by institutions under the control of the State Board of Higher Education on information technology in those entities. The bill removes the requirement that institutions under the control of the State Board of Higher Education prepare an information technology plan subject to approval by the Information Technology Department.

**Senate Bill No. 2260** authorizes the Chief Information Officer to require as a condition of contracting with the Information Technology Department or other state agency or department with respect to an information technology project that any individual employed by the contractor or a subcontractor to perform work under the contract submit to a criminal history record check.

**Senate Bill No. 2118** provides that the annual report of the Information Technology Department must describe the status and progress of state records management programs.

**Senate Bill No. 2127** changes a reference with respect to the hiring by the Educational Technology Council of the director of the Division of Independent Study to reflect the change of the name of the Division of Independent Study to the Center for Distance Education.

### **DEPARTMENT OF COMMERCE**

**House Bill No. 1018** revises the Housing Finance Agency mortgage loan financing program and the housing grant program to allow assistance in the development of low to moderate income housing or to otherwise assist a developing community in the state address an unmet housing need or alleviate a housing shortage. The bill requires the Division of Workforce Development of the Department of Commerce to develop and implement the state's talent strategy and a statewide intelligence coordination strategy and to administer a program to increase use of higher education internships and work experience opportunities for higher education students. The bill requires the Division of Workforce Development, in consultation with the Department of Career and Technical Education, Job Service North Dakota, and the Superintendent of Public Instruction, to develop and implement a program to assist public schools in promoting North Dakota career opportunities to students in grades 9 through 12. The bill requires the Department of Commerce to implement and administer a beginning again North Dakota pilot program to develop a data base of skills and other assets of communities and residents to be used to advance the internal and external attitude and image of the state.

**House Bill No. 1137** repeals provisions in NDCC Chapter 54-34.3 which relate to the establishment of an international business and trade office, a North Dakota American Indian business development office, and a North Dakota women's business development office and reenacts similar provisions in Chapter 54-60. The bill changes the membership of the Value-Added Agriculture Promotion Board to provide that the board consists of a minimum of 9 and maximum of 11 members and adds a representative of the Agricultural Products Utilization Commission as a member of the board. The bill requires that the North Dakota Economic Development Foundation Executive Committee include up to three members at large and a treasurer in addition to the chairman, vice chairman, and secretary.

**House Bill No. 1095** provides that a "business incentive" must be assistance in all forms valued at \$25,000 or more committed within a year. The bill provides that a business incentive in the form of a direct cash transfer that is not a structured grant under state or federal law must be structured as a loan, a forgivable loan, or as a preferred share that includes provisions for surrender.

**House Bill No. 1019** provides that the Workforce Enhancement Council consists of the private sector members of the Workforce Development Council, the director of the Department of Commerce, and the director of the Division of Workforce Development. The bill requires the Workforce Enhancement Council to recommend to the Commissioner of Commerce the approval of grants to institutions of higher education assigned primary responsibility for workforce training to be used to create or enhance training programs that address workforce needs of primary sector companies. The bill also establishes a workforce enhancement fund.

### **COMMISSION ON LEGAL COUNSEL FOR INDIGENTS**

**House Bill No. 1059** provides that information or records obtained by the Commission on Legal Counsel for Indigents which relate to allegations of misconduct by an attorney in the employ of, or providing indigent services for, the commission are exempt from disclosure except as otherwise provided in rules adopted by the commission unless and until the matter is referred for formal disposition under rules adopted by the Supreme Court.

**TITLE 55**  
**State Historical Society and State Parks**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 55. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

**Senate Bill No. 2341** provides that the Office of Management and Budget is to consider providing funding to the State Historical Society for the Heritage Center expansion project in the 2009-11 executive budget recommendation if the State Historical Society is able to demonstrate progress toward fundraising goals and federal funding is secured for the project. The bill provides that the 61<sup>st</sup> Legislative Assembly must consider appropriating funds to the State Historical Society for the Heritage Center expansion project if the State Historical Society is able to demonstrate progress toward fundraising goals and federal funding is secured for the project. The bill declares that the 60th Legislative Assembly supports the efforts of the State Historical Society in fundraising and securing federal funding for the Heritage Center expansion project during the 2007-09 biennium and appropriates \$1.5 million from the land and minerals trust fund to the Office of Management and Budget for the planning and design costs of the Heritage Center expansion project. The appropriation is contingent on the State Historical Society certifying to the Office of Management and Budget that \$1.5 million of private funds has been received and is available for the project.

**House Bill No. 1137** replaces the tourism director with the Commissioner of Commerce on the State Historical Board.

**Senate Bill No. 2019** authorizes the International Peace Garden to use Office of Management and Budget procurement services.

**House Bill No. 1018** provides that if the State Historical Society acquires a missile silo historic site, the site is named the Ronald Reagan Historic Site.

## **TITLE 57**

### **Taxation**

### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 57. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

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

#### **PROPERTY TAXES**

**House Bill No. 1303** requires counties to use soil type and classification data from detailed and general soil surveys in agricultural property assessment. In determining relative value of assessment parcels of agricultural property, assessors must apply three considerations, listed in descending order of significance, for soil type and classification data from detailed or general soil surveys, a schedule of modifiers to adjust agricultural property assessments, and actual use of the property for cropland or noncropland purposes by the owner of the parcel. By February 1 of each year, the county director of tax equalization is required to provide all assessors within the county a schedule of modifiers to adjust agricultural property assessments and the schedule for each county must be approved by the state supervisor of assessments. For any county that has not fully implemented use of soil type and soil classification data from detailed or general soil surveys for any taxable year after 2009, the Tax Commissioner must direct the State Treasurer to withhold 5 percent of the county's allocation each month from the state aid distribution fund. The bill requires that during the 2007-08 interim, each county that has not fully implemented use of soil type and soil classification data from detailed and general soil surveys must report to the Legislative Council the reason for failure to implement use of that information and the anticipated date when the county will have fully implemented use of that information.

**House Bill No. 1332** reduces from four years to two years the time for foreclosure of a tax lien and issuance of a tax deed to the county for delinquent property taxes. The board of county commissioners may waive all or part of penalties and interest on delinquent property taxes if the board believes the reduced foreclosure period for tax liens creates a hardship for taxpayers.

**House Bill No. 1446** increases the township excess levy limit from 50 percent to 100 percent over the basic legal limitations.

**Senate Bill No. 2172** provides that the homestead property tax exemption for a paraplegic disabled veteran is limited to \$120,000 of true and full valuation of the property. For a disabled veteran with a service-connected disability of 50 percent or greater, the income limitation for the exemption is eliminated and the individual is entitled to a percentage exemption against the first \$120,000 of true and full valuation of the property equal to the percentage of the individual's certified rated service-connected disability. The bill provides that after the initial filing of a claim for homestead exemption for a disabled veteran, the exemption is automatically renewed each following year until a change of status occurs. A board of county commissioners may approve a resolution to disallow exemptions for disabled veterans within the county.

**House Bill No. 1071** removes obsolete references from property tax laws, requires deposit in the state medical center fund of revenue equal to one mill of property taxes for all homestead property exemptions allowed by law, and updates statutory references to reflect changes previously made in other tax laws.

**Senate Bill No. 2200** revises the allocation of state funding assistance for elementary and secondary education. The bill removes a provision from the school district general fund levy limitation law which allowed increased levy authority for school districts in which total assessed valuation of property increased 20 percent or more from the prior year, resulting in a loss of state aid payments to the school district because of the valuation increase.

**Senate Bill No. 2299** allows cities to establish property valuations that recognize the supply of vacant lots available for sale in the city.

**House Bill No. 1072** moves the statutory provisions regarding taxable valuation of centrally assessed wind turbine electric generators from the general property assessment chapter to the chapter on centrally assessed property.

**House Bill No. 1317** reduces the taxable valuation of a centrally assessed wind turbine electric generation unit with a nameplate capacity of 100 kilowatts or more from 3 percent to 1.5 percent of assessed value if construction of the unit is completed after June 30, 2007, and before January 1, 2011.

**House Bill No. 1018** makes corrections to the amendment in House Bill No. 1317 to reduce the taxable valuation of a centrally assessed wind turbine electric generation unit with a nameplate capacity of 100 kilowatts or more from 3 percent to 1.5 percent of assessed value if construction of the unit is completed after June 30, 2006, and before January 1, 2011.

**Senate Bill No. 2137** allows use of the county emergency fund to match federal funds appropriated to mitigate damage to roads related to a federally declared disaster that occurred more than 60 days preceding the determination.

**Senate Bill No. 2205** requires adjustment in the maximum property tax levy for counties to reduce property taxes to reflect the transfer of employees and equipment from regional child support enforcement agencies to the Department of Human Services.

**House Bill No. 1312** allows a school district property tax levy increase in tax years 2007 through 2011 to make up for revenue losses attributable to a mistake in the 2006 levy.

**House Bill No. 1073** requires exclusion of carbon dioxide pipeline property, for which payments in lieu of taxes are required, from valuation of property in a taxing district for purposes of determining the mill rate for the taxing district.

**House Bill No. 1139** allows a resolution of the board of county commissioners retroactively to authorize use of excess farm-to-market road tax levies to apply to road programs subject to elections before August 1, 1987.

**Senate Bill No. 2088** allows submission of a written determination of disability from the Social Security Administration to qualify an individual as permanently and totally disabled under the homestead property tax credit.

**House Bill No. 1186** provides that when property taxes are paid under protest, the uncontested amount of taxes paid under protest may be allocated among taxing districts immediately as provided by law and only the contested amount of taxes paid under protest must be retained until the protest is decided. The uncontested amount of taxes is defined as the amount that would be payable if the application for abatement, adjustment, or refund is approved by the board of county commissioners as submitted.

**Senate Bill No. 2032** increases the maximum income to qualify for the homestead property tax credit from \$14,500 to \$17,500 and increases the maximum amount of property covered by the exemption from \$67,511 to \$75,000 of true and full valuation. The amount of an assessment increase for property which triggers the requirement for written notice to a property owner is reduced from a 15 percent increase to a 10 percent increase. The time the notice of assessment increases must be delivered to property owners

is increased from 10 to 15 days before the meeting of the local board of equalization. The time for which voters may approve unlimited or increased school district general fund levies is limited to not more than 10 years. The number of petition signatures required to place the question of discontinuing increased or unlimited school district general fund levy authority on the ballot is reduced from 20 percent of the persons in the school census to 10 percent of the number of electors who cast votes in the most recent school district election. Real estate and mobile home tax statements must include, or be accompanied by a separate sheet, with three columns showing, for the year of the tax statement and the two preceding tax years, the property tax levy in dollars against the property by the county and school district and any city or township that levied taxes against the property. The bill also provides income tax credits, which are summarized in the **income taxes** section of this memorandum.

## **INCOME TAXES**

**Senate Bill No. 2032** provides an income tax marriage penalty credit of up to \$300 per couple to offset any marriage penalty incurred for couples with income up to \$154,200. A homestead income tax credit is provided for individuals for taxable years 2007 and 2008 in the amount of 10 percent of property taxes or mobile home taxes that became due during the tax year and have been paid on the individual's homestead. For purposes of the credit, "homestead" means the dwelling occupied as a primary residence in this state and any residential or agricultural property owned by the individual in this state. The amount of the homestead income tax credit for a year may not exceed \$1,000 for married persons filing a joint return or \$500 for a single individual or married individuals filing separate returns. The amount of the homestead income tax credit exceeding the taxpayer's income tax liability may be carried forward for up to five years or the taxpayer may request that the Tax Commissioner issue the taxpayer a certificate in the amount of the excess. A certificate issued to a taxpayer may be used by the taxpayer against property or mobile home tax liability during the ensuing taxable year by delivering the certificate to the county treasurer of the county in which the taxable property or mobile home is subject to taxes. The county treasurer is to forward certificates redeemed in payment of tax obligations to the Tax Commissioner, who is to issue payment to the county in the amount of the certificates. A commercial property income tax credit is provided for an individual or corporation for taxable years 2007 and 2008 in the amount of 10 percent of commercial property taxes or commercial mobile home taxes that became due during the income tax year and have been paid. The amount of the credit for commercial property for a year may not exceed \$1,000 for any taxpayer and is limited for individuals to \$1,000 for married persons filing a joint return or \$500 for a single individual or married individuals filing separate returns.

**House Bill No. 1018** provides an individual and corporate income tax credit for angel fund investments, internship employment, and workforce recruitment for hard-to-fill employment positions and expands the income tax credit for research and experimental expenditures to apply to individual taxpayers. The aggregate amount of seed capital investment tax credits allowed is increased from \$2.5 million to \$3.5 million for each calendar year and biofuels production facilities are added to businesses for which agricultural business investment tax credits are available.

**Senate Bill No. 2224** allows investments by an angel fund to be eligible for the seed capital investment income tax credit.

**House Bill No. 1412** makes the research and experimental expenditures income tax credit available to a passthrough entity.

**Senate Bill No. 2091** establishes April 15, or the date prescribed by the Internal Revenue Service, as the filing date for financial institutions and corporate income tax returns for shortened tax years.

**Senate Bill No. 2083** establishes a time limit of four years for the Tax Commissioner to audit seed capital investment tax credit or agricultural business investment tax credit claims.

**Senate Bill No. 2298** provides that for geothermal, solar, or wind energy devices installed after December 31, 2006, if ownership of the device is transferred at the time installation is complete, the purchaser of the device is eligible for the income tax credit for such devices.

**House Bill No. 1514** adds biomass energy devices to the income tax credit available for installation of geothermal, solar, or wind energy devices.

**Senate Bill No. 2084** revises the provisions governing certification by the director of the Department of Commerce Division of Economic Development and Finance for businesses qualified to receive investments eligible for the seed capital investment income tax credit. Adjustments are made to calculation of the maximum annual credit a taxpayer may claim for the seed capital investment income tax credit.

**Senate Bill No. 2079** rearranges individual income tax provisions governing filing on Form ND-1. References to tax credits are arranged in a single subsection and a reference is removed to unused federal credit for prior year minimum tax.

**Senate Bill No. 2078** revises administrative provisions of the family care income tax credit. Disability determination for a qualifying family member will be determined under the Social Security Act and care expenses will be required to be deductible medical expenses under the Internal Revenue Code. A provision relating to prorating the credit among taxpayers who contribute to qualified care expenses is eliminated.

**House Bill No. 1091** allows an individual income tax deduction for up to \$5,000, or \$10,000 on a joint return, for contributions under a higher education savings plan administered by the Bank of North Dakota.

**House Bill No. 1233** allows assignment of a wind energy device installation income tax credit but the assignment may be made only to the purchaser of the power under a power purchase agreement or to a taxpayer that constructs or expands an electricity transmission line in North Dakota after August 1, 2007.

**Senate Bill No. 2081** revises provisions of the agricultural business investment income tax credit to provide that qualified investments must be in the form of cash or a fee simple interest in real property in this state and revises the provisions for certification of qualified businesses and limitations on the credit. The carryforward for excess credits is extended from 5 to 10 years.

**Senate Bill No. 2082** revises administrative provisions governing determination of the credit for income taxes paid to another state.

**Senate Bill No. 2363** expands the individual income tax credit for planned gifts to nonprofit organizations to provide a corporate income tax credit and to include gifts to qualified endowments. The credit for individuals is increased from 20 percent to 40 percent of the charitable gift and the maximum credit for individuals is increased from \$5,000 per year to \$10,000 per year or \$20,000 for married individuals filing a joint return. The credit for a corporation is 40 percent of a charitable gift to a qualified endowment and the maximum credit for a corporation is \$10,000 per year.

**House Bill No. 1403** creates an individual and corporate income tax credit for operation of a microbusiness. A microbusiness is defined as a business employing five or fewer employees inside an economically viable small community. A taxpayer certified as a microbusiness is entitled to a corporate and individual income tax credit equal to 20 percent of new investment and new employment in the microbusiness during the taxable year, limited to not more than \$10,000 in credits over any combination of years.

**House Bill No. 1393** provides an individual income tax exemption for income of a taxpayer from activities or sources within the boundaries of any Indian reservation in this state, if the taxpayer resides within the boundaries of any reservation in this state and is an enrolled member of a federally recognized Indian tribe. The bill also provides sales and motor vehicle excise tax exemptions for tribal members, which are summarized in the sales tax portion of this memorandum.

## **SALES, USE, AND MOTOR VEHICLE EXCISE TAXES**

**House Bill No. 1393** provides a sales tax exemption for sales on a reservation in this state to an individual who resides on any reservation in this state and is an enrolled member of an Indian tribe and a motor vehicle excise tax exemption for a sale in this state to an individual who resides on any reservation in this state and is an enrolled member of an Indian tribe.

**House Bill No. 1012** eliminates the requirement of residency within the boundaries of a reservation in this state for a tribal member to qualify for the motor vehicle excise tax exemption as created by House Bill No. 1393. The bill also reduces the state general fund share of motor vehicle excise tax revenue from 100 percent to 90 percent and requires a deposit of 10 percent in the highway fund. House Bill No. 1012 also would have eliminated the requirement of residency within the boundaries of a reservation in this state for a tribal member to qualify for the motor vehicle excise tax exemption created by House Bill No. 1393 but the Governor vetoed the relevant section of House Bill No. 1012.

**House Bill No. 1160** provides a motor vehicle excise tax and aircraft excise tax exemption for the operator of an emergency medical services operation for purchase of a motor vehicle originally manufactured for use as an ambulance or an aircraft for use as an air ambulance.

**House Bill No. 1049** provides for reduction and elimination of sales and use taxes on natural gas and other fuels used for heating purposes. On January 1, 2008, the sales and use tax rate for natural gas is reduced from 2 percent to 1 percent, coal used for heating purposes is exempted from sales taxes, the special fuels tax on diesel fuel used as heating fuel is reduced from four cents to two cents per gallon, and the rate of special fuels tax on propane is reduced from 2 percent to 1 percent. On July 1, 2009, sales of natural gas and other heating fuels are exempted from sales and use taxes and special fuels taxes.

**House Bill No. 1462** provides a sales and use tax exemption for materials used in compressing, processing, gathering, or refining natural gas and materials used in construction or expansion of an oil refinery.

**Senate Bill No. 2113** limits the motor vehicle excise tax exemption for the purchase of motor carrier vehicles engaged in interstate commerce which is measured by the extent their fleet miles outside North Dakota bear to their total fleet miles. The bill adds a limitation that the exemption is only available for motor carrier vehicles titled and registered in North Dakota.

**Senate Bill No. 2101** creates a motor vehicle excise tax exemption for a motor vehicle procured by or on behalf of the North Dakota lottery which is to be awarded as a prize in a game or promotion.

**Senate Bill No. 2086** places a limit of three years on the time a total loss statement from an insurer may be used as a motor vehicle excise tax credit against the purchase of a replacement vehicle.

**Senate Bill No. 2381** provides that the sales and use tax deduction to reimburse retailers for administrative expenses of tax collection is available to a certified service provider performing sales and use tax collection administration for remote sellers under the streamlined sales tax agreement. The amount of the deduction for certified service providers is the amount approved by the streamlined sales and use tax governing board.

**House Bill No. 1033** updates a reference to the revised chapter on public improvement contracts for purposes of contractor's performance bonds for payment of use taxes.

**Senate Bill No. 2225** eliminates sales and use taxes for sales of bingo cards and substitutes a 3 percent excise tax on gross proceeds from the sale of bingo cards.

**House Bill No. 1074** establishes reporting responsibilities for special events promoters under the sales tax laws. A promoter of a special event at which 10 or more special event vendors participate is required

to provide the Tax Commissioner a list identifying each special event vendor within 20 days following the special event.

**House Bill No. 1450** provides that under home rule sales and use tax collection agreements with a city or county, the retailer may provide the purchaser a refund equal to the refund to which the purchaser would be entitled if the purchaser filed a refund claim.

**House Bill No. 1365** provides that the sales and use tax exemption for power plant repowering or environmental upgrade equipment is available for equipment delivered on or after January 1, 2007, for plants that began construction before July 1, 1991. The bill also expands the exemption for an electrical generating plant burning any type of coal, rather than only lignite coal.

**House Bill No. 1014** extended until December 31, 2009, the provision allowing member states to define sourcing rules for sales by florists for purposes of the streamlined sales tax agreement.

**Senate Bill No. 2380** is intended to keep North Dakota in compliance with the streamlined sales tax agreement. A definition is provided for "bundled transaction" to determine how to apply sales taxes to transactions involving taxable and nontaxable products sold for one lump sum price. The bill brings statutory provisions into streamlined sales tax agreement compliance relating to the definition of prepared food, requiring states to provide zip code data bases to determine sales taxes in a transaction, identifying the source of sales involving electronic communications, and requiring member states to review and certify that certified service providers and certified automated systems are correctly calculating taxes.

**Senate Bill No. 2298** extends the sales tax exemption for power plant construction, production, environmental upgrade, and repowering equipment from electrical generating facilities powered by lignite or wind to apply to any other type of electrical power generating facility. The sales tax exemption for materials used to construct agricultural commodity processing facilities is amended to allow the facility to receive the exemption at the time of purchase, rather than by applying for a refund.

## COAL TAXES

**House Bill No. 1365** extends coal conversion tax benefits for repowering to plants using any type of coal, rather than only lignite coal.

**House Bill No. 1093** provides that for the 2007-09 biennium, 3.5 percent of coal conversion tax allocations to the state general fund are instead allocated to the lignite research fund and from July 1, 2009, until July 31, 2018, 5 percent of coal conversion tax allocations to the state general fund must be instead allocated to the lignite research fund.

## OIL AND GAS TAXES

**House Bill No. 1279** makes permanent the gross production tax exemption for shallow gas during the first 24 months of production, which was scheduled to expire June 30, 2007.

**Senate Bill No. 2397** provides an oil extraction tax reduction to 2 percent for the first 75,000 barrels of oil during the first 18 months after completion from a horizontal well drilled and completed in the Bakken formation from July 1, 2007, through June 30, 2008.

**House Bill No. 1044** increases allocations to counties from oil and gas gross production taxes by up to \$750,000 per year per county.

**Senate Bill No. 2178** allows a county that reaches the annual cap on oil and gas gross production tax revenue to receive an additional \$1 million in revenues if the county levies a total of at least 10 mills for county road and bridge, farm-to-market and federal-aid road, and county road purposes. Any additional amount received by the county is not for allocation to political subdivisions within the county but must be credited entirely to the county general fund.

**House Bill No. 1128** increases from \$1.3 million to \$3 million per biennium the amount of oil extraction tax revenues to be deposited into the oil and gas research fund.

**Senate Bill No. 2419** provides the Governor authority to enter agreements with the Three Affiliated Tribes relating to taxation and regulation of oil and gas exploration and production within the boundaries of the Fort Berthold Reservation. The state oil and gas gross production tax must apply to all wells within the Fort Berthold Reservation and the state oil extraction tax for trust lands on the Fort Berthold Reservation may not exceed a 6.5 percent rate but may be reduced through negotiation of the agreement. All revenues and exemptions from all oil and gas gross production and oil extraction taxes attributable to production from trust lands on the Fort Berthold Reservation must be evenly divided between the tribe and the state. For production from nontrust lands on the Fort Berthold Reservation, the tribe must receive 20 percent of total oil and gas gross production tax collections in lieu of application of the Three Affiliated Tribes' fees and taxes related to production on such lands. The state's share of revenue under the agreement is subject to allocation among political subdivisions within the boundaries of the reservation. The bill is ineffective after June 30, 2009, unless by that date the Governor's office notifies the Tax Commissioner and Legislative Council that an agreement has been entered with the Three Affiliated Tribes.

**House Bill No. 1395** provides that the first \$700,000 of the state's share of tax revenues from oil produced from wells within the exterior boundaries of the Fort Berthold Reservation must be transferred to the permanent oil tax trust fund.

**Senate Bill No. 2178** repeals the statutory permanent oil tax trust fund effective June 30, 2009, if the voters of the state approve the constitutional oil tax trust fund at the 2008 general election, as proposed by 2007 House Concurrent Resolution No. 3045.

### FUELS TAXES

**House Bill No. 1049** reduces the special fuels tax for diesel fuel used for heating fuel from four cents to two cents per gallon from January 1, 2008, through June 30, 2009, and after that date makes diesel fuel used for heating fuel exempt from the special fuels tax. The bill reduces the rate of tax for propane sold for use as heating fuel from 2 percent to 1 percent effective January 1, 2008, and makes that fuel exempt from special fuels taxes beginning July 1, 2009.

**House Bill No. 1348** retains the special fuels special excise tax rate of 2 percent for sales of propane but changes the tax rate to four cents per gallon for diesel fuel and special fuels other than propane.

**House Bill No. 1138** allows a refund for emergency medical services operations for taxes paid on motor vehicle fuel, special fuel, and aviation fuel.

**Senate Bill No. 2089** eliminates the motor vehicle fuels tax requirement that invoices or sales tickets must include the state fuels tax as a separate item or a statement that the state tax is included in the price.

**Senate Bill No. 2085** provides that fuels tax reports must be based on fuel in physical inventory and that reports of physical inventory readings must be provided to the Tax Commissioner on a monthly basis.

**Senate Bill No. 2087** provides a definition of E85 fuel for motor vehicle fuels tax purposes and biodiesel for special fuels tax purposes.

### EMERGENCY SERVICES COMMUNICATION FEES

**Senate Bill No. 2169** provides for imposition and collection of fees for prepaid wireless service and voice over Internet protocol service for emergency 911 service purposes.

**Senate Bill No. 2265** provides that a record obtained for emergency 911 services which reveals the address of a person requesting emergency services or reporting an emergency is exempt from the open records law and may be redacted from any records before they are released.

## **TAX ADMINISTRATION**

**Senate Bill No. 2006** is the appropriation bill for the office of the Tax Commissioner. The bill increases the annual salary of the Tax Commissioner from \$79,345 to \$83,039 on July 1, 2007, and \$86,360 on June 1, 2008.

**TITLE 58**  
**Townships**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting 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.

**House Bill No. 1386** increases the annual maximum amount of compensation that a township supervisor, clerk, or treasurer is entitled from \$600 to \$1,000 and increases the annual maximum expense and mileage reimbursement for those officers from \$600 to \$1,000.

**Senate Bill No. 2278** provides that a township zoning regulation that pertains to a concentrated feeding operation which was adopted after July 31, 2007, is not effective until filed with the State Department of Health for inclusion in a central repository for concentrated feeding operations regulations. The bill also provides that a zoning regulation that pertains to a concentrated feeding operation which was adopted before August 1, 2007, may not be enforced until the regulation is filed for inclusion in the central repository.

**House Bill No. 1420** revises the limitations on zoning regulations that may be enacted by a board of township supervisors with respect to farming, ranching, and concentrated animal feeding operations. The bill establishes standards for the determination of the number of animal units and authorizes the adoption of setback distances for concentrated animal feeding operations and related agricultural operations. The bill authorizes a board of township supervisors to establish, around areas zoned for residential, recreational, or nonagricultural commercial uses, low-density agricultural production districts in which setback distances are greater than those in other districts. The bill provides that the limitations on zoning regulations with respect to farming, ranching, and concentrated animal feeding operations do not include any power relating to the role of the board of township supervisors in the establishment, repair, or maintenance of highways or roads.

**Senate Bill No. 2271** requires a township zoning commission and a board of township supervisors to state the grounds upon which any request for a zoning amendment or variance is approved or disapproved and requires that written findings upon which the decision is based be included within the records or the commission or board.

**House Bill No. 1392** increases the civil penalty that a board of township supervisors may impose for the failure to bring a building or structure or the use of land into compliance with a township zoning regulation from \$500 to \$2,000 annually.

June 2007

**TITLE 59**  
**Trusts, Uses, and Powers**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 59. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

**House Bill No. 1034** adopts the Uniform Trust Code with specific changes to address provisions of this state's law. In particular, the bill allows for trusts for the care of an animal, addresses spendthrift provisions and the rights of creditors, and effectively eliminates the distinction between discretionary trusts and support trusts.

**TITLE 60**  
**Warehousing and Deposits**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 60. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

**House Bill No. 1181** directs the Public Service Commission to suspend collection of the credit-sale contract indemnity fund when the level of the fund reaches \$6 million and to resume collection when the fund is less than \$3 million.

**House Bill No. 1360** directs the State Treasurer to invest money in the credit-sale contract indemnity fund and to deposit any income earned through the investments into the fund.

**House Bill No. 1470** directs a public warehouseman to notify a receipt holder by mail of the warehouseman's intention to terminate the receipt holder's storage contract, unless the receipt holder demands redelivery, authorizes sale of the grain, extends the storage contract, or enters a new contract for restorage, before the date identified in the contract.

**Senate Bill No. 2247** exempts from certain licensing and bonding provisions any person that purchases, solicits, or merchandises grain that has been cleaned, processed, and made ready for consumption from a public warehouseman or a facility-based grain buyer.

## **TITLE 61**

### **Waters**

### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code (NDCC) Title 61. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to waters may be classified in these subject areas: State Water Commission; drains and drainage projects; water districts and the Lake Agassiz Water Authority; and prevention of pollution of surface waters.

#### **STATE WATER COMMISSION**

**Senate Bill No. 2020** appropriates \$176,010,555 to the State Water Commission. Of this total, \$69,352,698 is from the resources trust fund and \$40,055,999 is from the water development trust fund. The bill provides that notwithstanding any other provision of law or policy, any existing caps may not be construed to limit access to total state funding of up to \$52 million for the Grand Forks flood control project. The bill also provides that notwithstanding any other provision of law, a drought disaster livestock water assistance program project commenced after application for funding is made but without prior approval of the State Engineer is eligible for funding from the program. The drought disaster livestock water assistance program provision became effective upon the bill's filing with the Secretary of State.

**Senate Bill No. 2345** authorizes the State Water Commission to issue bonds in an amount not to exceed \$40 million plus the cost of issuance of the bonds, capitalized interest, and reasonably required reserves to fund the nonfederal share of funds necessary to construct the Red River Valley Water Supply Project. The bill provides that principal and interest on bonds issued for the Red River Valley Water Supply Project are payable from the water development trust fund from funds transferred from the tobacco settlement trust fund. The bill provides that the remaining \$60 million to comprise a total of \$100 million to meet the \$100 million state share of Phase 1 of the Red River Valley Water Supply Project is to be funded over three bienniums. The \$60 million is to be derived from \$30 million from general fund money and \$30 million from the resources trust fund. The bill also provides that the state is to provide an additional \$100 million of municipal, rural, and industrial water supply funds for Phase 2 of the Red River Valley Water Supply Project, to meet the \$200 million state share of the project.

**House Bill No. 1513** authorizes the State Water Commission to establish an emergency municipal, tribal, and rural water assistance program for municipalities, tribes, and rural water systems, whose primary source of water is the Missouri River, Lake Sakakawea, or Lake Oahe. The purpose of the program is to provide emergency grant funds to municipalities, tribes, and rural water systems facing a critical need or health risk as a result of the inability of the water intake system for the municipal, tribal, or rural water system to supply an adequate quantity of quality water to the people served by the municipal, tribal, or rural water system.

**House Bill No. 1215** expands the drought livestock water assistance program from a maximum of \$3,500 to a maximum of \$3,500 per project with a limit of three projects per applicant. The bill provides that a drought livestock water assistance program project located on Indian land is eligible for the program. The bill became effective upon its filing with the Secretary of State.

**Senate Bill No. 2096** provides that for purposes of removing, modifying, or destroying dangers in, on the bed of, or adjacent to navigable waters that if a building, structure, boat dock, debris, or other manmade object, except a fence or corral, is partially or completely submerged due to the expansion of navigable waters, the person responsible is the person who owns or had control of the property on which the object

is located or the person who owned or had control of the property immediately before it became submerged by water. The bill authorizes the State Engineer to enter agreements with the Game and Fish Department or other law enforcement entities to enforce laws and rules relating to sovereign lands management. The bill provides that a person who violates laws or rules governing sovereign lands management is guilty of a Class B misdemeanor unless a lesser penalty is indicated. In addition, a civil penalty may be imposed by a court in a civil proceeding or by the State Engineer through an adjudicative proceeding.

### **DRAINS AND DRAINAGE PROJECTS**

**Senate Bill No. 2214** provides that water and drainage projects involving eminent domain must be carried out in accordance with NDCC Chapter 32-15 governing eminent domain proceedings.

**House Bill No. 1265** provides that as part of the design and construction of a proposed assessment drain or the maintenance or reconstruction of an existing assessment drain, a board of managers of a water resource district, upon approval of the appropriate road authority, may locate, relocate, size, and install culverts through roads which are not on the routes of assessment drains but which are within the assessment area and which are necessary for surface water to reach the assessment drain.

**House Bill No. 1331** provides that if a drain obstruction is located in a road ditch, the timing and method of removal must be approved by the appropriate road authority before notice to the landowner is given and appropriate construction site protection standards must be followed.

**House Bill No. 1266** increases the assessment for maintenance or construction of drains from \$1.50 per acre to \$2 per acre and extends the time period during which a water resource board may accumulate funds from four years to six years.

**House Bill No. 1282** allows a water resource district board to undertake a project relating to maintenance of a federally constructed project that will benefit lands outside the water resource district's boundaries if the board of each district containing lands benefited by the project approves the project and assessment by a vote of two-thirds of its members. The bill provides that the board of county commissioners in each county that contains lands benefited by the project must approve and levy the assessment by a vote of two-thirds of its members. The bill allows a water resource board to undertake a project that may benefit lands outside the district's boundaries if the board finances the cost of the project and does not assess land outside the boundaries of the district.

### **WATER DISTRICTS AND LAKE AGASSIZ WATER AUTHORITY**

**Senate Bill No. 2369** increases the aggregate total of outstanding revenue bonds a water district may have from \$25 million to \$50 million.

**House Bill No. 1268** changes the duties of the Lake Agassiz Water Authority relative to the issuance of bonds from operating a project financed by the authority in an efficient and economical manner, enforcing all water purchase and water sales contracts, and establishing, levying, maintaining, and collecting related necessary or proper fees, tolls, rentals, rates, and other charges to making certain any project financed by the authority is operated in an efficient and economical manner, that all water purchase and water sales contracts are enforced, and that all proper fees, tolls, rentals, rates, and other charges are established, levied, maintained, and collected.

### **PREVENTION OF POLLUTION OF SURFACE WATERS**

**House Bill No. 1501** provides that an appeal from the issuance, denial, modification, or revocation of a permit issued under NDCC Chapter 61-28 governing the control, prevention, and abatement of pollution of surface waters may be made by the person who filed the permit application, or by any person who is aggrieved by the permit application decision, provided that person participated in or provided comments during the hearing process for the permit application, modification, or revocation. The bill provides that except for a violation of Chapter 61-28 which occurs after the permit is issued, or any permit condition, rule, order, limitation, or other applicable requirement implementing the chapter which occurs after the permit is issued, any challenge to the State Department of Health's issuance, modification, or revocation

of the permit or permit conditions must be made in the permit hearing process and may not be raised in any collateral or subsequent legal proceeding, and that the applicant or any aggrieved person may raise on appeal only issues that were raised to the department in the permit hearing process.

**TITLE 62.1**  
**Weapons**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 62.1. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in this memorandum.

**Senate Bill No. 2213** includes equivalent offenses of another state or the federal government within the prohibition on felons and certain individuals who commit misdemeanors from possessing firearms.

**TITLE 63**  
**General Provisions**  
**Summary of Bills Enacted by 2007 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.

**TITLE 64**  
**Weights, Measures, and Grades**  
**Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 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. 2077** expands the authority of the Public Service Commission to issue variance permits for liquid dispensing devices.

## **TITLE 65**

### **Workforce Safety and Insurance**

#### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 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: administration and benefits.

#### **ADMINISTRATION**

**House Bill No. 1460** modifies the membership of the Workforce Safety and Insurance Board of Directors, transferring the employee member representing the risk management program to be an employer at-large representative, providing qualifying premium levels for employer representatives are determined at the time of initial appointment, providing the employee member who received Workforce Safety and Insurance benefits must have received wage-loss benefits at some time during the 10 years before initial appointment, providing that board members whose initial appointments were after July 31, 2007, may not serve more than two consecutive terms, providing for a coordinating committee to submit to the Governor a list of three employer members for appointment, providing the Governor selects the employee board members who do not represent organized labor, providing the Governor selects the North Dakota Medical Association member from a list of three names submitted by the North Dakota Medical Association, allowing the Governor to reject the list of names submitted, and providing the new membership provisions apply to board member appointments occurring after July 31, 2007. Additionally, the bill provides spending authority limitations for education, training, and awards.

**House Bill No. 1517** provides Workforce Safety and Insurance may provide an injured employee's insurer information regarding the injured employee's claim.

**Senate Bill No. 2021** provides Workforce Safety and Insurance may establish programs to advance occupational health and preventive medicine, including education, consultation, grants, scholarships, and incentives that promote superior care and treatment of the workforce in this state.

**Senate Bill No. 2028** removes the requirement that Workforce Safety and Insurance make biennial reports to the Budget Section on all revenues deposited in and expenditures made from the building maintenance account within the Workforce Safety and Insurance fund.

**Senate Bill No. 2092** corrects the statutory reference to the workers' compensation fund and provides the money in the fund may be used to pay costs associated with workers' compensation loss control programs.

**Senate Bill No. 2123** makes several changes to the workers' compensation laws, including permits Workforce Safety and Insurance to print a certificate that identifies an account as one that has no employees; permits Workforce Safety and Insurance to disclose information pertaining to whether an employer is delinquent or uninsured; eliminates the workers' compensation experience rating surcharge cap for employer premiums; and changes the workers' compensation risk management program from a document-based program to a results-based program.

#### **BENEFITS**

**House Bill No. 1038** increases the workers' compensation benefits available to catastrophically injured employees for adaptations to real estate, for specially equipped motor vehicles, and vehicle adaptations; creates an alternative calculation for additional benefits payable applicable to employees injured before

August 1, 2005, who were determined to be permanently and totally disabled after July 30, 2005; expands the qualification for death benefits for catastrophically injured employees; expands who may qualify for a student loan under the educational revolving loan fund; and shortens the time requirements to be eligible for supplementary benefits for employees injured after December 31, 2005.

**House Bill No. 1140** provides for an inflation adjustment for injured employees receiving long-term temporary partial disability benefits.

**House Bill No. 1411** allows Workforce Safety and Insurance to provide benefits for adaptations to real estate, specially equipped motor vehicles, or vehicle adaptations for injured employees who are not catastrophically injured.

**Senate Bill No. 2042** provides that under the presumption of compensability for full-time paid firefighters and law enforcement officers, if a medical examination produces a false positive result for a condition covered under the presumption, the condition is a compensable injury.

**Senate Bill No. 2294** changes the injured employee's burden of proof in reopening a claim that was presumed closed from having to prove the work injury was the sole cause of the current symptoms to having to prove the work injury was the primary cause of the current symptoms.

**Senate Bill No. 2389** clarifies that a permanent impairment is not intended to be a periodic payment and is not intended to reimburse the employee for specific expenses related to the injury or to wage loss and changes the permanent impairment award schedule from a calculation based on a period of weeks to a schedule that uses a corresponding multiplier.

## INDEX TO HOUSE AND SENATE BILLS

Bill No.	Page	Bill No.	Page	Bill No.	Page
1001	54-1	1069	39-4	1129	23-3
1002	27-1	1070	34-1	1130	24-1
1003	15-1	1071	11-2, 57-1	1131	43-3
1004	23-1	1072	57-2	1134	44-1, 52-1
1009	4-1	1073	57-2	1135	6-1
1012	8-1, 24-1, 39-4, 57-5	1074	57-5	1136	23-2
1014	6-1, 38-1, 57-6	1075	12.1-2	1137	21-1, 54-8, 55-1
1015	12-1, 12.1-2, 19-2	1076	15.1-2	1138	57-7
1016	52-1	1077	12-1	1139	57-2
1018	15-2, 54-8, 55-1, 57-2, 57-3	1078	15-2, 54-6	1140	65-2
1019	15-2, 43-3, 54-8	1081	15.1-3	1142	49-1
1020	4-1, 24-1	1082	5-1	1143	49-1
1021	15.1-3, 23-3, 54-7	1083	27-1	1146	47-1
1022	4-1	1085	4-2	1147	47-1
1028	54-4	1087	39-2	1154	23-1
1029	11-1, 40-1	1088	6-2	1155	26.1-1
1030	15-1	1089	39-3	1156	54-4
1031	54-5	1090	24-1, 39-4	1157	11-2
1032	54-5	1091	6-2, 57-4	1158	39-1
1033	11-2, 15.1-1, 23-3, 25-1, 40-1, 43-1, 48-1, 57-5	1092	12-2, 15.1-3, 27-1, 54-2	1160	57-5
1034	3-1, 10-1, 23-3, 30.1-1, 38-1, 59-1	1093	57-6	1161	23-1
1035	9-1, 10-1, 41-1, 45-1, 47-1	1094	23-1	1162	14-2, 23-1
1037	26.1-2, 39-1	1095	54-8	1164	4-2
1038	65-1	1096	6-2	1166	24-1
1040	12.1-1	1097	27-1	1169	15.1-3
1044	57-6	1098	54-5	1171	15-2
1045	11-2, 38-2	1099	44-1	1172	15.1-2
1046	15.1-2	1100	6-1	1177	15.1-3
1048	38-2	1101	46-1	1178	15.1-1
1049	57-5, 57-7	1102	54-5	1179	23-4, 54-6
1052	43-3	1103	54-4	1181	60-1
1053	43-1	1104	54-1	1183	39-3
1054	43-2	1106	54-1	1184	20.1-2
1055	19-1	1107	54-1	1185	4-2
1056	52-1	1108	32-1	1186	57-2
1057	52-1	1109	23-1	1193	49-1
1058	47-1	1114	39-2	1195	20.1-1
1059	54-8	1116	12-1	1197	31-1
1060	38-1, 54-3	1117	13-1	1199	15.1-2
1061	6-1	1118	43-2	1201	53-2
1062	6-2	1119	43-3	1205	39-3
1063	39-2	1121	19-2	1206	19-2
1064	39-2	1122	12.1-3, 14-2, 23-2, 25-1, 27-1, 29-1, 31-1	1211	32-1
1065	54-6	1123	43-2	1215	61-1
1066	4-2	1124	4-1	1216	12.1-2
1067	18-1	1125	43-3	1217	25-1
1068	39-3	1126	53-1	1218	43-2
		1127	49-2, 54-3	1219	12.1-3
		1128	28-1, 54-3, 57-7	1221	49-1
				1224	19-2, 29-1, 31-1

<b>Bill No.</b>	<b>Page</b>
1225	40-1
1227	39-1
1229	38-1
1231	47-1
1232	23-3
1233	57-4
1234	39-2
1235	15-1
1236	39-2
1238	14-1
1241	10-1, 45-1
1243	16.1-3
1248	15.1-1
1253	6-2
1256	43-2
1257	47-1
1258	39-4
1261	15.1-1
1263	53-1
1265	61-2
1266	61-2
1268	61-2
1270	15.1-3
1274	26.1-1
1278	52-1
1279	57-6
1281	15.1-2
1282	61-2
1289	20.1-2
1290	23-3
1291	37-1
1293	43-1
1295	39-3
1296	18-1, 23-2, 26.1-1
1299	43-2
1301	6-2
1303	57-1
1304	35-1, 41-1
1305	15.1-2
1309	54-4
1310	39-2
1311	20.1-2
1312	57-2
1313	43-1
1315	49-1
1317	49-1, 57-2
1318	54-2
1319	12.1-3
1321	40-1
1322	32-1
1324	53-1

<b>Bill No.</b>	<b>Page</b>
1328	13-1
1330	53-1, 54-2
1331	61-2
1332	15-2, 57-1
1333	31-1
1334	15.1-3
1338	35-1
1340	10-1, 54-2
1341	6-1
1342	6-1
1344	24-1
1346	5-1
1347	25-1
1348	57-7
1350	43-2
1351	50-1
1355	31-1
1357	12.1-1
1358	12.1-3
1359	39-3
1360	60-1
1362	39-3
1365	57-6
1369	6-2
1374	16.1-2
1375	16.1-2
1376	16.1-3
1377	16.1-2
1378	16.1-1
1379	16.1-3
1380	16.1-1
1381	11-2
1382	4-2, 44-1
1383	15.1-1
1386	58-1
1390	50-3
1392	58-1
1393	57-4, 57-5
1395	15-1, 57-7
1396	20.1-2, 39-1
1398	39-2
1400	39-3
1402	20.1-2
1403	57-4
1408	30.1-1
1411	65-2
1412	57-3
1413	52-1
1414	14-2
1417	51-1
1420	11-1, 23-4, 58-1

<b>Bill No.</b>	<b>Page</b>
1421	36-1
1422	50-1
1425	37-1
1429	54-4
1432	54-6
1433	54-6
1434	23-2
1435	23-2
1439	54-3
1445	39-3
1446	57-1
1450	57-6
1452	32-1
1454	34-1
1455	43-2
1460	65-1
1461	15-1, 54-7
1462	17-1, 54-4, 57-5
1463	50-1
1465	39-3
1466	12.1-3
1468	39-1
1470	60-1
1471	23-2
1472	12.1-1
1476	40-1
1477	43-1
1482	12-2
1483	54-5
1487	15-1
1488	23-2
1490	4-2, 12-1
1491	15.1-2
1492	10-1
1499	16.1-2
1500	12.1-1
1501	28-1, 61-2
1503	54-3
1504	12-2
1505	23-1
1506	49-1
1507	44-1, 51-1
1511	38-1
1513	61-1
1514	57-4
1515	20.1-1, 54-3
1517	65-1
2001	54-1
2002	54-2
2003	54-2
2004	54-2

<b>Bill No.</b>	<b>Page</b>	<b>Bill No.</b>	<b>Page</b>	<b>Bill No.</b>	<b>Page</b>
2005	54-2	2078	57-4	2137	37-1, 57-2
2006	57-8	2079	57-4	2138	12.1-1, 23-4
2008	49-2	2081	57-4	2142	37-1
2009	4-1	2082	57-4	2145	54-1
2010	26.1-1	2083	57-3	2146	39-2
2012	23-3, 25-1, 50-1	2084	57-4	2147	20.1-1
2013	15.1-1	2085	57-7	2148	39-2
2017	20.1-1	2086	57-5	2149	11-1, 40-1
2019	54-5, 55-1	2087	57-7	2151	6-2
2020	61-1	2088	57-2	2152	43-2
2021	65-1	2089	57-7	2153	10-1, 45-1, 54-2
2025	12-2, 43-2	2090	23-3, 48-1	2154	26.1-1
2028	4-2, 15.1-1, 49-2, 54-4, 65-1	2091	57-3	2155	26.1-1
2029	12-1, 12.1-2	2092	65-1	2156	6-3
2030	12.1-3, 15.1-2, 54-4	2093	11-2, 44-1, 54-5	2158	43-1
2031	49-1	2094	46-1	2159	19-2
2032	57-2, 57-3	2095	4-2	2160	44-2
2035	52-1	2096	20.1-2, 61-1	2163	23-3, 39-1
2036	43-3	2097	23-3, 26.1-2	2167	50-3
2037	12-1, 54-7	2098	5-1, 19-2, 54-2	2168	43-3
2038	54-7	2099	4-1	2169	57-7
2040	51-1	2100	50-2	2170	28-1
2042	65-2	2101	53-1, 57-5	2171	26.1-1
2044	54-6	2103	12.1-2	2172	57-1
2045	54-6	2104	6-1	2175	39-2
2046	15-2	2105	4-2	2176	6-2
2047	54-6	2107	4-2	2178	57-6, 57-7
2048	39-2	2108	15.1-3	2179	4-1
2049	21-1	2109	23-2	2180	6-1
2052	43-3	2111	39-2	2182	6-2
2053	54-2	2112	39-1	2183	18-1, 26.1-1
2056	43-3	2113	39-2, 57-5	2185	12.1-1
2057	15.1-3	2114	36-1	2186	50-2
2058	20.1-2	2115	37-1	2188	49-1
2059	20.1-1	2117	4-1	2192	6-3
2060	43-3	2118	54-7	2193	34-1
2061	54-4	2119	43-1	2194	44-1
2062	43-3	2120	6-2	2195	51-1
2064	14-2	2123	65-1	2196	44-2
2065	26.1-2	2124	50-1	2200	15.1-1, 57-2
2066	25-1, 50-3	2125	43-3	2201	20.1-2
2067	26.1-1	2127	15-2, 15.1-2, 54-8	2204	5-1, 14-2
2068	50-3	2128	4-1	2205	11-2, 14-1, 35-1, 50-2, 57-2
2069	50-1	2129	12.1-3, 14-1, 50-2	2210	13-1
2070	50-3	2130	15.1-3, 25-1, 43-2	2212	23-3
2071	50-1	2131	50-2	2213	62.1-1
2074	14-1	2132	50-2	2214	2-1, 6-3, 10-1, 11-1, 20.1-2, 23-2, 24-1, 32-1, 40-2, 48-1, 49-1, 54-3, 61-2
2075	14-1	2133	50-3		
2076	14-1	2134	19-1, 50-3		
2077	54-4, 64-1	2135	5-1		
		2136	50-3		

<b>Bill No.</b>	<b>Page</b>
2216	32-1
2217	43-1
2219	47-1
2221	28-1, 47-1
2222	28-1
2224	57-3
2225	53-1, 57-5
2228	4-2
2230	16.1-2
2231	16.1-2
2232	16.1-2
2233	16.1-1
2234	16.1-3
2235	16.1-1
2236	40-1
2237	16.1-1
2238	16.1-1
2239	16.1-2
2241	12.1-2
2242	32-1
2243	29-1
2246	44-1
2247	60-1
2248	12.1-1, 29-1
2250	20.1-2
2251	20.1-2
2252	26.1-1
2255	51-1
2256	12.1-2
2259	12.1-2
2260	12-1, 15.1-3, 19-2, 32-1, 43-4, 50-3, 53-1, 54-7
2262	12.1-3
2263	39-3

<b>Bill No.</b>	<b>Page</b>
2265	44-2, 57-7
2266	51-1
2268	10-1, 26.1-2
2271	11-1, 40-1, 58-1
2273	23-2
2274	32-2
2276	54-1
2277	28-1
2278	11-1, 23-3, 58-1
2284	28-1
2285	35-1
2287	15.1-3
2288	4-2, 15-1, 39-4, 54-3
2293	20.1-1
2294	65-2
2295	6-2, 7-1
2296	26.1-1
2298	57-3, 57-6
2299	57-2
2300	6-2
2305	24-1
2308	23-3
2309	15.1-2
2310	54-1
2312	50-3
2313	15.1-2
2314	15.1-2
2317	19-1
2318	26.1-2
2319	19-1
2321	54-5
2323	19-1
2326	50-2

<b>Bill No.</b>	<b>Page</b>
2329	5-1
2336	14-1
2338	36-1
2341	55-1
2343	43-3
2344	15-1, 15.1-2
2345	61-1
2349	40-2
2350	41-1
2352	12.1-1, 23-1
2353	37-1
2354	15.1-2
2357	12-2
2358	23-2
2359	50-3
2360	39-3
2363	57-4
2364	47-1
2366	14-2
2368	49-1
2369	61-2
2378	29-1
2379	15-1
2380	11-1, 40-2, 57-6
2381	57-5
2388	15.1-1
2389	65-2
2397	57-6
2402	54-5
2406	39-3
2411	26.1-1
2415	12.1-2
2418	23-2
2419	57-7