

**2023**  
**NORTH DAKOTA**  
**CENTURY CODE**  
**TITLE SUMMARIES**



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

**TITLE 1**  
**General Provisions**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 1.

[House Bill No. 1173](#) designates the twenty-second day of January as Right-To-Life Day.

[House Bill No. 1361](#) clarifies the term "person" as used in the North Dakota Century Code does not include environmental elements, artificial intelligence, an animal, or an inanimate object. The bill was declared to be an emergency measure and became effective April 12, 2023.

[House Bill No. 1474](#) defines the terms "female", "male", and "sex" as these terms are used in the North Dakota Century Code, clarifying "female" means an individual whose biological reproductive system is developed to produce ova, "male" means an individual whose biological reproductive system is developed to produce sperm, and "sex" means the biological state of being male or female, based on the individual's nonambiguous sex organs, chromosomes, or endogenous hormone profiles at birth.

[Senate Bill No. 2335](#) designates the ninth day of September as Fetal Alcohol Spectrum Disorder Awareness Day.

**TITLE 2**  
**Aeronautics**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 2.

[Senate Bill No. 2053](#) changes the term "state patrolman" to "highway patrol trooper" as it relates to individuals required to enforce aeronautics laws under Chapter 2-05.

**TITLE 3**  
**Agency**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

There was no 2023 legislation enacted which affected North Dakota Century Code Title 3.

**TITLE 4.1**  
**Agriculture**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 4.1.

The legislation relating to agriculture may be classified in these subject areas--animal agriculture products and programs; boards, committees, councils, and districts; funds and grant programs; and miscellaneous.

**ANIMAL AGRICULTURE PRODUCTS AND PROGRAMS**

[House Bill No. 1100](#) adopts the most current federal meat and poultry inspection regulations.

[House Bill No. 1255](#) expands the definition of "milk" to include the lacteal secretion of a healthy, four-legged, hooved mammal. The bill also broadens the definition of "dairy products" to products derived from the milk of a healthy four-legged hooved mammal rather than from the milk of a cow only.

[House Bill No. 1423](#) creates a model zoning review task force comprised of 15 members to develop a new model zoning ordinance for animal feeding operations, or update a previously created model zoning ordinance; review low-density agricultural districts and applicable setbacks and uses, and to review zoning districts for purposes of considering the impact of overlay districts. The bill requires the task force to provide a report to the Legislative Management on changes to the model zoning ordinance.

[House Bill No. 1515](#) allows raw milk to be sold from a farm directly to an end consumer for personal consumption. The bill exempts the sale from provisions of law regulating the sale and distribution of pasteurized milk. The bill prohibits the sale of raw milk to a wholesaler or retailer for mass consumption, the sale of raw milk out of state, and the donation of raw milk.

[Senate Bill No. 2373](#) establishes a program for the board of county commissioners to apply for and receive from the Agriculture Commissioner a designation as a livestock friendly county. The bill requires the county to reapply for the designation once every 4 years in order to retain the designation and provides the Agriculture Commissioner the authority to revoke a county's designation.

**BOARDS, COMMITTEES, COUNCILS, AND DISTRICTS**

[House Bill No. 1099](#) removes the requirement that weed control complaints must be signed before being forwarded to the proper weed control authority.

[House Bill No. 1501](#) classifies the North Dakota Soybean Council as a nongovernmental entity, exempting the council from a state audit but mandating that an annual report be submitted to the State Auditor and the Agriculture Commissioner. The bill prohibits the council from imposing a state assessment on soybeans if a federal assessment is in place. The bill requires all money received by the council to be deposited in the soybean checkoff account at the Bank of North Dakota for use by the council for approved purposes. The bill mandates money in the checkoff account be separated from all other council money and removes the soybean fund as a fund from which money is invested by the State Treasurer. The bill becomes effective on July 1, 2024.

[Senate Bill No. 2009](#) increases the salary of the Agriculture Commissioner from \$123,984 to \$131,423 through June 30, 2024, and to \$136,680 thereafter. The bill requires one of the individuals from the energy community on the Federal Environmental Law Impact Review Committee to represent an organization that supports lignite energy in North Dakota and the other individual to represent an organization that supports oil and gas activity in North Dakota. The bill authorizes the Governor to appoint the individual representing an organization supporting oil and gas activity in North Dakota. The bill imposes orders of priority for mitigation of adverse impacts with funds from the environmental impact mitigation fund and limits easements and leaseholds purchased by a person for mitigating adverse environmental effects to the operational life of the energy conversion or transmission facility as defined in Chapter 49-22. The bill requires the Agriculture Commissioner to notify the Public Service Commission of mitigation efforts before the Public Service Commission issues a permit or certificate to an energy conversion or transmission facility and requires the Agriculture Commissioner to provide to the Legislative Management a biennial report of environmental impact mitigation fund disbursements.

[Senate Bill No. 2027](#) repeals Section 4.1-01-11 relating to the Advisory Committee on Sustainable Agriculture.

[Senate Bill No. 2062](#) limits civil penalties for violations of various chapters of Title 4.1 to being imposed by the Seed Commissioner, rather than by the Seed Commissioner or the district court, and allows the Seed

Commissioner to petition the district court for payment of the civil penalties imposed. The bill increases the amount of the civil penalty that may be imposed by the Seed Commissioner for violations from \$1,000 to \$10,000 per violation. The bill also updates state law to comply with the most current version of the federal Plant Variety Protection Act [7 U.S.C. 2121 et seq.].

[Senate Bill No. 2246](#) increases the daily compensation for soil conservation district board members from \$62.50 to \$75 while performing duties as a member. The bill also provides board members an allowance for meals and lodging at the rates provided in Section 44-08-04 and reimbursement for mileage and travel expenses at the rates provided in Section 54-06-09.

[Senate Bill No. 2259](#) allows an audit of an agricultural commodity group biennial statement of revenues and expenditures to be conducted by any auditor, rather than by the State Auditor only, and allows an annual financial statement audit, as required by the commodity group's national association, to be substituted for the biennial audit of the commodity group's statement of revenues and expenditures.

[Senate Bill No. 2324](#) eliminates the representative of the crop protection product manufacturing industry as a nonvoting member of the Crop Protection Product Harmonization and Registration Board.

## **FUNDS AND GRANT PROGRAMS**

[House Bill No. 1153](#) authorizes the North Dakota Corn Utilization Council to establish a grant program to provide funding for North Dakota corn-related programming. The bill also adds the development and promotion of corn policy to the list of allowable uses of money raised under Chapter 4.1-04 and requires the North Dakota Corn Utilization Council to hold two public input meetings per year to discuss the expenditure of funds. The bill was declared to be an emergency measure and became effective on April 21, 2023.

[House Bill No. 1276](#) creates the agriculture infrastructure grant program to be administered by the Agriculture Commissioner to provide access to value-added agriculture businesses through infrastructure improvements, including roads and utilities. Grants provided under the program may not exceed 80 percent of infrastructure project costs or \$1,250,000 per project, whichever is less, or 80 percent of capital improvement project costs or \$350,000 per project, whichever is less. The bill directs the Agriculture Diversification and Development Committee to designate the amount available from the agriculture diversification and development fund for loans, interest rate buydowns, and grants and to develop grant policies and reporting requirements. The bill also directs the Bank of North Dakota to develop policies for loans and interest rate buydowns and requires an annual audit of the agriculture diversification and development fund.

[House Bill No. 1437](#) creates the regional livestock development and planning grant program to assist counties and regional planning councils with livestock development planning and to encourage investment in livestock production. Grants under the program may be awarded to assist in identifying locations for rural economic development and to review and update township zoning and land use regulations. Grants are limited to \$12,000 per county and \$500 per township. The bill also exempts from open records requirements any information created, collected, or maintained by the Agriculture Commissioner which identifies parcels of land suitable for rural economic development.

[Senate Bill No. 2233](#) requires the agriculture diversification and development fund to be audited annually by the State Auditor or an independent certified public accounting firm. The bill allows the audit of the fund to be combined with the audit of other programs or funds administered by the Bank of North Dakota if the combined audit would result in costs-savings or efficiencies.

## **MISCELLANEOUS**

[House Bill No. 1302](#) streamlines the process of securing a license for anhydrous ammonia facilities and anhydrous mobile storage containers by eliminating the requirement for an owner or operator to apply to both the Agriculture Commissioner and the Board of County Commissioners for a license. The bill requires the Agriculture Commissioner to notify the Board of County Commissioners of the Agriculture Commissioner's intent to license a new facility and provides the county 45 days to request a local zoning review and 60 days to complete a review if the request is granted. The bill also requires the Agricultural Commissioner to provide written notice to a county if an anhydrous ammonia storage facility within the county changes ownership and a license is issued to the new owner.

[House Bill No. 1393](#) relocates to Title 4.1 the content of various provisions in Title 60 pertaining to grain and seed warehouses, grain buyers, insolvent grain warehousemen, uniform accounting for public elevators and warehouses, and credit-sale contracts indemnity. The bill also changes the type of background check required to obtain a public warehouse license, adds bond discount language, and changes the requirement for a buyer

that offers deferred-payment contracts to provide bond protection to a requirement for the buyer to inform producers of bond protection.

**Senate Bill No. 2096** authorizes the Agriculture Commissioner to adopt and amend rules governing hemp and hemp commodities or products, defines various terms relating to the hemp industry, and prohibits a growing or processing licensee from modifying and selling or distributing hemp extract or hemp commodities or products to produce delta-9, delta-8, or delta-10-tetrahydrocannabinol, or other tetrahydrocannabinol isomers, analogs, or derivatives. The bill allows the Agriculture Commissioner to issue subpoenas in any investigation regarding hemp and the court to grant an injunction on the creation, sale, distribution, or advertisement of hemp, or vacate, annul, or suspend a company's charter or authority to do business in this state for failure to comply with a subpoena. The bill also requires an applicant for a grain buyer license to file a bond with the Agriculture Commissioner for the specific purpose for protecting the grain seller and covering costs incurred by the Agriculture Commissioner if the licensee becomes insolvent. The bill prohibits the bond from accruing to the benefit of anyone entering a credit-sale contract with a grain buyer and clarifies the liability of the surety under a bond. The bill requires the Agriculture Commissioner to set the amount of the bond and any increases, requires the bond to be based on the dollar value of grain purchased, solicited, or merchandised, and requires a grain buyer to report to the Agriculture Commissioner monthly on any purchases, solicitations, or merchandising agreements.

**Senate Bill No. 2100** requires various meat processing and handling businesses, including those defined as an "official establishment" or a "custom exempt establishment" to obtain a license from the Agriculture Commissioner. The bill defines a "custom exempt establishment" as an establishment that slaughters and processes animal carcasses or meat product for the owner of the animal for the owner's personal use and an "official establishment" as an establishment that slaughters livestock or poultry or processes meat or meat products for human consumption.

**Senate Bill No. 2194** authorizes the Agriculture Commissioner to establish a postproduction royalty oversight program to provide technical assistance and support to mineral owners, lease owners, and mineral companies relating to royalty payment issues. The bill allows the Agriculture Commissioner to contract for ombudsmen to serve as a resource for technical assistance on royalty payment issues. The bill exempts the names of mineral owners, lease owners, and mineral companies that receive assistance from the program from an open records request under state law. The bill also requires the Agriculture Commissioner to provide a report to the Energy Development and Transmission Committee by June 1 of each even-numbered year.

**TITLE 5**  
**Alcoholic Beverages**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 5.

[House Bill No. 1449](#) removes inconsistencies among licensing requirements for microbrew pubs, domestic distilleries, brewer taproom licensees, and domestic wineries, including references to special event permits, specific off-premises event types, limitations on the number of events per calendar year, and local ordinances. The bill also removes the requirement for a domestic distillery to use a majority of North Dakota farm products to manufacture and sell spirits produced on the premises.

[Senate Bill No. 2363](#) provides the owner of a brewer taproom with discretion to permit an individual under the age of 21 to enter and remain in the brewer taproom if the brewer taproom is connected to or in a contractual relationship with a qualifying food establishment. The food establishment must receive the majority of its gross sales from the sale of food and must prepare and make available for sale food that may be consumed in the brewer taproom. The bill also requires the individual under 21 to be accompanied by a parent or guardian and prohibits the individual from sitting at or within 3 feet of the bar counter and entering or remaining in the brewer taproom after 10:00 p.m. or any time food is not available for consumption in the brewer taproom.



**TITLE 6**  
**Banks and Banking**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 6.

[House Bill No. 1003](#) establishes the economic diversification research fund. Money in the fund may be used to provide grants to institutions under the control of the State Board of Higher Education for the purpose of stimulating economic activity in the state. The bill requires 90 percent of the grants be awarded to the University of North Dakota and North Dakota State University and requires the State Board of Higher Education to develop guidelines for the grants and annually report to Legislative Management on the results of the grant program.

[House Bill No. 1014](#) increases the maximum amount that may be transferred from the strategic investment and improvements fund from \$80 million to \$140 million. The bill also allows money in the guarantee reserve fund to be used to reimburse the Bank of North Dakota for guaranteed loans in default. The changes become effective July 1, 2025.

[House Bill No. 1018](#) renames the innovation loan fund to support technology advancement as the legacy investment for technology fund and changes the name of the innovation technology loan program to the legacy investment technology loan program. The bill also renames the innovation loan fund to support technology advancement committee as the legacy investment for technology committee and changes the term "unmanned vehicles" to "uncrewed vehicles" as the term in used in Chapter 6-09.

[House Bill No. 1125](#) allows the State Treasurer and the county auditor to withhold school district state aid payments upon written notice when a school district has failed to pay the principal or interest on any evidence of indebtedness issued after July 31, 2023.

[House Bill No. 1215](#) removes a reference to recipient and grantor reports under Chapter 54-60.1 due to the repeal of that chapter in a section of law that exempts the disclosure of those reports by the Industrial Commission from the prohibition on disclosing customer information.

[House Bill No. 1292](#) expands the definition of "essential infrastructure projects" relating to the infrastructure revolving loan fund to include infrastructure required to service recreation and community facilities, not including the construction of a building or recreational amenity. The bill was declared to be an emergency measure and became effective on April 11, 2023.

[House Bill No. 1379](#) removes the requirement for the State Treasurer to transfer money from the legacy sinking and interest fund to the Public Employees Retirement System main system plan. The bill was declared to be an emergency measure and became effective on July 1, 2023.

[House Bill No. 1487](#) creates a new chapter to Title 6 prohibiting financial entities from using merchant codes relating to firearms and ammunition-related purchases. The bill provides the Attorney General may investigate violations and assess a civil penalty of \$10,000 per violation to be deposited into the merchant code violation fund and provided to victims harmed by a violation.

[Senate Bill No. 2092](#) expands the authority of the Department of Financial Institutions to remove financial officers, directors, or employees from any entity licensed by the department and clarifies the department's order is final if no hearing is requested within 20 days of service. The bill authorizes a voluntary liquidation of a credit union upon the department's approval and requires the credit union's board of directors to vote on liquidation, send members notice of liquidation, and submit a liquidation schedule and other reports to the Commissioner of Financial Institutions. The bill repeals Chapter 6-06.1 relating to voluntary liquidation of credit unions.

[Senate Bill No. 2119](#) replaces a reference to Chapter 13-09 with a reference to Chapter 13-09.1 to account for the repeal and replacement of the chapter regulating money transmitters in a section of law directing the revenue from Chapter 13-09.1 to be deposited in the financial institutions regulatory fund.

[Senate Bill No. 2233](#) requires funds and loan programs administered by the Bank of North Dakota to be audited annually by the State Auditor or an independent certified public accounting firm, and requires the costs related to the performance audit to be paid from the fund subject to the audit. The bill allows the audits to be combined into one comprehensive audit if the combined audit would result in cost-savings.

[Senate Bill No. 2242](#) establishes the bulk propane storage tank revolving loan fund, administered by the Bank of North Dakota. The bill provides authority to the Bank to structure and disburse loans, qualify applicants, and establish policies and guidelines to allow participation by local financial institutions. The bill requires an annual audit of the fund, the costs of which must be paid from the fund.

[Senate Bill No. 2330](#) reduces from \$40 million to \$20 million the maximum combined amount of outstanding loans a political subdivision may have from the infrastructure revolving loan fund and the legacy infrastructure loan fund.

**TITLE 8**  
**Carriage**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

There was no 2023 legislation enacted which affected North Dakota Century Code Title 8.

**TITLE 9**  
**Contracts and Obligations**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

There was no 2023 legislation enacted which affected North Dakota Century Code Title 9.

**TITLE 10**  
**Corporations**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 10.

[\*\*House Bill No. 1018\*\*](#) authorizes the North Dakota development fund to provide funding to any private or public entity. The bill also authorizes the Chief Executive Officer of the North Dakota development fund to delegate the duties of the Chief Executive Officer to the Director of the Department of Commerce Division of Economic Development and Finance, or the Director's designee, if the Chief Executive Officer is absent, or anticipated to be absent, for more than 5 consecutive days.

[\*\*House Bill No. 1084\*\*](#) requires foreign farming or ranching limited liability companies to comply with the limited liability laws under Chapter 10-32.1. The bill also requires a foreign entity to use forms prescribed by the Secretary of State when applying for a certificate of authority to transact business in this state, or seeking to amend or withdraw a certificate of authority.

[\*\*House Bill No. 1215\*\*](#) amends the law relating to the small business technology investment program by removing a reference to Chapter 54-60.1, relating to business incentive agreements, as a result of the repeal of that chapter.

[\*\*House Bill No. 1216\*\*](#) increases the maximum amount that may be awarded by the Department of Commerce for the creation or expansion of an early childhood facility from \$100,000 to \$1 million per award. The bill also repeals Section 10-30.5-13 relating to the small business technology investment program.

[\*\*House Bill No. 1371\*\*](#) creates new shareholder and member ownership requirements for corporate farming, including restrictions on property interests. The bill requires at least 65 percent of gross income from specified livestock operations and specifies that no more than 20 percent of gross income may come from non-farm activities. The bill outlines requirements for livestock operations to file an initial report with the name of the corporation or company, details of each shareholder or member, and statements that land requirements and other qualifications outlined in the Chapter have been met. The bill also updates Chapter 10-06.1 to reflect the new structure of livestock farm corporations and livestock farm limited liability companies. This bill was declared to be an emergency measure and became effective on April 28, 2023.

[\*\*Senate Bill No. 2015\*\*](#) authorizes money in the North Dakota development fund to be used to provide financing for projects that enhance the production of clean sustainable energy.

[\*\*Senate Bill No. 2060\*\*](#) establishes a \$200 late fee for a security issuer that does not file within 15 days after the first sale of a security, allows a security issuer to increase the aggregate amount of each security to be registered, and removes restrictions on who may sell securities. The bill also allows the Securities Commissioner to exempt certain investment advisors from registration requirements, requires investment adviser representatives to comply with continuing education requirements, updates record keeping requirements, clarifies an order of the Securities Commissioner is effective upon issuance, and exempts the public disclosure of professional investigative services.

[\*\*Senate Bill No. 2325\*\*](#) establishes the restitution assistance fund for victims of securities violations who meet qualifying factors and authorizes the Securities Commissioner to administer the fund.

**TITLE 11**  
**Counties**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 11.

The legislation relating to counties may be classified in these subject areas--board of county commissioners, rural ambulance service districts, terminology changes, and miscellaneous.

**BOARD OF COUNTY COMMISSIONERS**

[House Bill No. 1120](#) requires each commissioner be given the opportunity to participate in a voluntary recitation of the Pledge of Allegiance at the start of each regularly scheduled meeting of the board of county commissioners.

[House Bill No. 1234](#) prohibits a county from enacting or enforcing an ordinance, resolution, or policy prohibiting or impeding utility service based on fuel source.

[House Bill No. 1273](#) would have prohibited a county from implementing an ordinance permitting ranked-choice and approval voting methods in countywide elections. **This bill was vetoed by the Governor on April 6, 2023, and the veto was sustained.**

[House Bill No. 1340](#) prohibits a home rule county from regulating firearms and ammunition through planning policies and zoning ordinances or when adopting civil and criminal penalties for a violation of an ordinance protecting private persons and property and public health, safety, morals, and welfare.

[Senate Bill No. 2306](#) provides a method by which the board of county commissioners may hire an economic development organization to perform job development authority functions. The bill provides the board of county commissioners may authorize the economic development organization's board of directors to serve as the job development authority's board and allow some or all of the economic development organization's board members to be part of the job development authority's board of directors, subject to approval of the board of county commissioners.

[Senate Bill No. 2350](#) allows cities, counties, and townships to affix to any traffic sign prohibiting engine brakes a penalty sign stating the amount of the penalty imposed for violating the ordinance.

[Senate Bill No. 2370](#) allows a county to contract for cooperative purchases through a joint-powers agreement with approval from the board of county commissioners. The bill prohibits counties from using cooperative purchasing for the construction of a public improvement.

[Senate Bill No. 2371](#) prohibits a board of county commissioners from approving a development agreement or building plan with an individual or government identified as a foreign adversary under 15 CFR 7.4(a) or a person on the Office of Foreign Assets Control sanctions list unless the individual or government is a duly registered business that has been in good standing with the Secretary of State for at least 7 years, has been approved by the Committee on Foreign Investment in the United States, and maintains an active national security agreement with the federal government.

**RURAL AMBULANCE SERVICE DISTRICTS**

[House Bill No. 1365](#) requires the formation of a rural ambulance service district for certain emergency medical service operations by June 30, 2025. The bill prohibits more than two elected members of the board from serving as members of the licensed ambulance service serving the district territory and requires board members to meet the definition of volunteer in Section 23-27-04.1. The bill allows a district to organize an emergency medical service company to serve a district if emergency medical services are not provided by a licensed ambulance service. Beginning in 2025, the bill exempts an ambulance operations area situated in an emergency medical services area from the tax imposed for the emergency medical services area if the ambulance operations area is not receiving services from the emergency medical services area. The bill amends and outlines the procedure for discharging the financial obligations of territory withdrawn, exempted, or dissolved from a district.

[House Bill No. 1477](#) requires any incorporated city situated within the boundaries of a proposed rural ambulance service district to be subject to the petition requirements in Section 11-28.3-01. The bill extends from June 13 to August 10 the deadline by which the president and secretary of the rural ambulance service district must certify to the auditor of the county or counties in which the district is located the estimated cost of carrying out the general emergency medical service policy of the district. The bill eliminates the bonding

requirement for the secretary treasurer of the district and expands the institutions at which the secretary treasurer may deposit tax levied for the district to include credit unions. The bill replaces references to Section 57-40.6-10 with references to Section 23-27-01 in sections of law relating to the annexation and withdrawal of areas from a district to clarify the areas being referenced are those the rural ambulance service district has been assigned to serve rather than the areas closest to the district by response time.

### **TERMINOLOGY CHANGES**

[House Bill No. 1042](#) updates terminology related to the classification of deaths in infants and children by replacing references to "sudden infant death syndrome" with references to "unexplained sudden death in infant or child with or without intrinsic or extrinsic factors, or both."

[House Bill No. 1165](#) updates terminology by replacing "executive director" with "commissioner" in regard to the title of the head of the Department of Health and Human Services and allows the Commissioner to delegate certain duties to a designee.

[Senate Bill No. 2053](#) updates terminology by replacing "highway patrolmen" with "highway patrol troopers."

[Senate Bill No. 2139](#) replaces a reference to "burial" with a reference to "final disposition" in relation to final disposition of residents within the state who are indigent to account for final disposition by cremation in addition to burial.

### **MISCELLANEOUS**

[House Bill No. 1057](#) requires a statement of full consideration on a deed transferring title to property pursuant to a judgment.

[House Bill No. 1423](#) prohibits a board of county commissioners from adopting or enforcing setbacks applicable to an animal feeding operation which exceed the Department of Environmental Quality setback distances provided in Section 23.1-06-15 for the regulation of odors. The bill requires a county to make a valid determination when permitting animal feeding operations rather than a simple decision and clarifies the impact of court involvement on the procedural timeline. The bill prohibits a board of county commissioners from charging more than \$500 when permitting an animal feeding operation and restricts the board from requiring additional permits for improvements or modifications to an operation in compliance with existing state and federal regulations. The bill requires a court to award attorney's fees, costs, and expenses to the prevailing party in an action challenging the validity of a county ordinance or determination relating to an animal feeding operation.

[Senate Bill No. 2286](#) provides a sheriff maintains the sheriff's powers and duties throughout the state while transporting an individual who is under arrest or is detained under Chapter 25-03.1.

**TITLE 12**  
**Corrections, Parole and Probation**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 12.

The legislation relating to corrections, parole, and probation may be classified in these subject areas--criminal history background checks and miscellaneous.

**CRIMINAL HISTORY BACKGROUND CHECKS**

[House Bill No. 1191](#) removes the authority of the Public Service Commission to request the Bureau of Criminal Investigation provide a statewide and nationwide criminal history record check for applicants seeking a license as a clerk or auctioneer as a result of the repeal of the licensing requirements for clerks and auctioneers. The bill becomes effective on January 1, 2024.

[Senate Bill No. 2051](#) requires the Bureau of Criminal Investigation to provide a statewide or nationwide criminal history record check upon request of the Department of Health and Human Services for certified family foster home for children providers and approved tribal foster care facilities. The bill prohibits a criminal history record investigation sought for one purpose from being used to satisfy the requirements of another federal bureau of investigation's criminal history record investigation sought for a different purpose.

[Senate Bill No. 2076](#) removes the authority of the Department of Environmental Quality to request a statewide or a nationwide criminal history record check from the Bureau of Criminal Investigation for an individual under investigation by the Department of Environmental Quality.

[Senate Bill No. 2102](#) removes a reference to the State Health Officer in the section of law authorizing the Department of Health and Human Services to request criminal history record checks from the Bureau of Criminal Investigation for applicants for job openings or current employees of the Department.

**MISCELLANEOUS**

[House Bill No. 1203](#) defines a "reserve peace officer license" and removes language extending a licensed reserve peace officer the same authority as a licensed peace officer. The bill also authorizes the Peace Officer Standards and Training Board to expend up to \$50,000 of fees collected by the Board to sponsor training and instruction of licensees.

[House Bill No. 1264](#) defines "individual justice planning" as a process to identify, accommodate, and develop appropriate consequences for behaviors caused by or related to an individual's mental or cognitive impairment. The bill also includes an inmate's participation in the individual justice planning process as an alternative to physical custody.

[House Bill No. 1473](#) requires a restroom or shower room in a correctional facility, youth correctional center, or penitentiary to be designated for use exclusively by males or exclusively by females and requires an administrator or warden to provide a reasonable accommodation for a transgender or gender-nonconforming inmate.

[Senate Bill No. 2091](#) creates exceptions to the Department of Corrections and Rehabilitation's confidentiality policies for specified individuals, organizations, and agencies to access the medical, psychological, or treatment records of an adult in custody or under supervision without prior court application, except for federal drug and alcohol treatment and rehabilitation laws. The individuals, organizations, and agencies that may receive records include an emergency contact or next of kin of an adult with a serious or terminal medical condition, a guardian or individual with a medical power of attorney of an adult, an individual or organization assisting the adult with various services with the adult's written authorization, and the court.

[Senate Bill No. 2105](#) modifies the exception under which an inmate may manufacture, possess, or use a wireless electronic communications device or a person may deliver, or possess with the intent to deliver, a wireless electronic communication device to an inmate from an exception for law enforcement purposes to an exception as authorized by the Department of Corrections and Rehabilitation.



**TITLE 12.1**  
**Criminal Code**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 12.1.

The legislation relating to criminal code may be classified in these subject areas--criminal offenses and offenders, judicial process and sentencing, and miscellaneous.

**CRIMINAL OFFENSES AND OFFENDERS**

[House Bill No. 1140](#) makes it a Class C felony for a health care provider to perform an artificial insemination using the reproductive material of an individual other than the donor to which the patient consented to artificially inseminate that patient.

[House Bill No. 1171](#) makes it a Class C felony for an individual to force or coerce a woman to have an abortion against her will. The bill provides a definition for "abortion," "force or coerce," and "threat," and requires a law enforcement agency, upon the request of the victim, to notify the victim at least 24 hours before the police contacts the individual alleged to have committed the offense.

[House Bill No. 1254](#) makes it a Class B felony for a health care provider to perform a castration, vasectomy, hysterectomy, oophorectomy, metoidioplasty, orchiectomy, penectomy, phalloplasty, vaginoplasty, mastectomy, or other surgical removal of healthy body tissue, except for the purpose of male circumcision, on a minor for the purpose of changing or affirming the minor's perception of the minor's sex. The bill makes it a Class A misdemeanor for a health care provider to prescribe, dispense, administer, or otherwise supply a drug for purposes of aligning the minor's sex with the minor's perceived sex. The bill exempts good faith medical decisions of a parent or guardian of a minor born with a medically verifiable genetic disorder of sex development and provides an exemption if the care began before the effective date of the bill. The bill requires prosecution for a violation to commence within 3 years of the offense or within 3 years after the offense was reported to law enforcement. This bill was declared to be an emergency measure and became effective on April 21, 2023.

[House Bill No. 1333](#) makes it a Class A misdemeanor for a person to organize an adult-oriented performance on public property or at a business establishment frequented by minors or where minors are or may be invited as a part of the general public. The bill makes it a Class C felony for a second or subsequent offense.

[House Bill No. 1334](#) makes it a Class C felony for an individual to commit, conspire with others to commit, or materially support the crime of domestic terrorism. This bill was declared to be an emergency measure and became effective on April 13, 2023.

[House Bill No. 1378](#) provides an individual committing a crime of criminal mischief while engaged in a riot is subject to a Class C felony. The bill also provides an individual committing theft while engaged in a riot or with an organized group of five or more people is subject to a Class C felony.

[Senate Bill No. 2150](#) repeals Section 12.1-31-12, relating to the state's prohibition on abortions, and replaces the repealed provision with a new chapter in Title 12.1 related to abortion. The new chapter defines "abortion," "physician," "probable gestational age of the unborn child," "reasonable medical judgment," and "serious health risk;" provides that the performance of an abortion is a Class C felony; and creates exemptions for cases in which a pregnancy may lead to death or a serious health risk, a pregnancy is the result of rape or incest and the gestational age of the unborn child is 6 weeks or less, or the pregnancy is terminated at the direction of a physician by an individual who is acting within the scope of the individual's profession and does not know that performance of the abortion is a violation. This bill was declared to be an emergency measure and became effective on March 16, 2023.

[Senate Bill No. 2360](#) would have required digital or online library database resource providers to implement protection measures that prohibit and prevent students enrolled in K-12 from exposure to obscene performance or explicit sexual material. The bill would have made it a Class B misdemeanor for an employee of a school district, state agency, or public library to willfully expose explicit sexual material to a minor. **This bill was vetoed by the Governor on April 26, 2023, and the veto was sustained.**

**JUDICIAL PROCESS AND SENTENCING**

[House Bill No. 1041](#) creates a procedure and timeline for requesting restitution and objecting to a restitution request. The bill requires the state to collect restitution information from the victim and to provide a copy to the defendant within 60 days after the sentencing. The bill also allows the defendant to request a hearing within

30 days of receiving the restitution information from the state if the defendant disagrees with the requested restitution. The bill allows the court to enter restitution if a hearing is not requested within 30 days.

[House Bill No. 1138](#) adds participation in a mental health court program to the list of approved sentencing alternatives under Section 12.1-32-02. The bill allows the North Dakota Supreme Court to approve mental health court programs supervised by the state district courts, and to adopt rules for mental health court programs.

[House Bill No. 1269](#) changes references to a "domestic violence offenders treatment program" to a "domestic violence offender intervention program" and provides a definition for "intimate partner." The bill also adds the offenses of harassment, stalking, felonious restraint, unlawful imprisonment, criminal mischief, interference with a telephone during an emergency call, violation of a disorderly conduct restraining order, order prohibiting contact, or domestic violence protection order, against an intimate partner to the list of offenses requiring an offender to complete a domestic violence offender assessment and intervention program as determined by the court.

[House Bill No. 1350](#) defines the parameters of gun possession and imposes a mandatory term of imprisonment without parole for an armed offender if the offender is prohibited from possessing a firearm under Section 62.1-02-01.

[House Bill No. 1490](#) adds the application of "force" in the commission of an underlying offense to the list of aggravating factors that a court may consider in justifying a departure from presumptive probation.

[Senate Bill No. 2012](#) requires a defendant's fitness to proceed examination to occur within 15 days from receipt of material necessary to examine the fitness of the individual and notice of entry of the order served upon the Tier 1a mental health professional.

[Senate Bill No. 2046](#) changes the competency to stand trial provision by providing that Class B misdemeanors will be dismissed without prejudice when there is evidence the defendant lacks fitness to proceed, except for Class B misdemeanors under Chapter 12.1-17. The bill also provides the court more flexibility in ordering alternative treatment by authorizing the court to make a referral for appropriate services.

## MISCELLANEOUS

[House Bill No. 1038](#), which related to technical corrections, corrects internal cross-references in Sections 12.1-31-01.2(9) and 12.1-31.2-01(8).

[House Bill No. 1205](#) prohibits a public library from maintaining books that contain explicit sexual material in the library's children's collections. The bill requires a public library to develop and implement policies and procedures for reviewing and evaluating its book collections to ensure the library maintains age-appropriate materials in its children's collections. The bill also requires public libraries to submit a compliance report to the Legislative Management by May 1, 2024.

[House Bill No. 1474](#) changes the definition of "sex" as created by Section 1 of House Bill No. 1254 from meaning "the biological state of being female or male, based on the individual's nonambiguous sex organs, chromosomes, and endogenous hormone profiles at birth" to "the biological state of being male or female, based on the individual's nonambiguous sex organs, chromosomes, or endogenous hormone profiles at birth."

[Senate Bill No. 2067](#) allows the Attorney General to reimburse acute forensic medical examination costs at any time during the biennium and eliminates the requirement for a children's advocacy center to seek reimbursement from insurance for a forensic interview before receiving reimbursement from the Attorney General.

**TITLE 13**  
**Debtor and Creditor Relationship**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 13.

[House Bill No. 1068](#) requires all non-bank mortgage loan servicers in the state to obtain licensure from the Department of Financial Institutions. The bill requires servicers to maintain sufficient financial conditions and liquidity based upon the size of the servicer's nationwide portfolio. The bill creates a Class C felony for violations relating to prohibited acts and practices.

[Senate Bill No. 2090](#) removes the prohibition against those persons that regulate money brokers from having a financial interest in a money broker. The bill exempts pawn brokers, residential mortgage lenders, and individuals performing official duties as a mortgage loan originator from money broker licensing requirements. The bill modifies service and license suspensions relating to money brokers, clarifies maximum charge restrictions for loans do not apply to court costs and other filing and recording fees, and designates the district court of Burleigh County as the court to which the Department of Financial Institutions may apply for orders relating to injunctions against money brokers. The bill increases the civil penalty the Commissioner of the Department of Financial Institutions may impose from \$5,000 per violation to \$100,000 per violation and \$100,000 per day for each day the violation continues after issuance of an order and requires the penalty to be paid to the Department of Financial Institutions rather than the State Treasurer. The bill also creates Chapter 13-12 relating to the regulation and licensing of residential mortgage lenders.

[Senate Bill No. 2119](#) repeals Chapter 13-09, relating to the licensing and regulation of money transmitters, and replaces it with a new Chapter 13-09.1. Chapter 13-09.1 creates licensing requirements for persons engaged in money transmissions and allows the Commissioner of the Department of Financial Institutions to issue cease and desist orders against persons in violation of the chapter, impose civil penalties, and issue license suspensions or revocations. The bill also provides for criminal penalties for persons that operate without a license or intentionally make false statements or misrepresentations.

# TITLE 14

## Domestic Relations and Persons

### Summary of Bills Enacted by the 2023 Legislative Assembly

This memorandum summarizes legislation affecting North Dakota Century Code Title 14.

The legislation relating to Title 14 may be classified in these subject areas--adoption and parenting, domestic violence and child abuse, pregnancy and abortion, spousal support, use of pronouns, and miscellaneous.

#### ADOPTION AND PARENTING

[House Bill No. 1113](#) updates terminology and procedures pertaining to parenting investigators and guardians ad litem. The bill clarifies a guardian ad litem must be an attorney, replaces the term "custody investigations" with "parenting investigations," directs the North Dakota Supreme Court to adopt rules relating to qualified parenting investigators and make available a roster of eligible individuals, and provides civil immunity for a parenting investigator related to the parenting investigator's report.

[House Bill No. 1362](#) provides a parent has a right to exercise primary control over the care, supervision, upbringing, and education of the parent's child. The bill also provides a child has a right to be protected from abuse and neglect and the state retains a compelling interest in protecting the child from abuse and neglect.

[Senate Bill No. 2080](#) requires a child-placing agency to obtain and consider the foster care home assessment of a foster parent seeking to adopt a child and to provide the assessment with the report of the investigation to the court. This bill establishes an adoptive home is presumed suitable for the purpose of adoption if the petitioner continuously furnished foster care for more than 1 year without a disciplinary action, unless the agency reasonably believes the use of the assessment or the adoption would not be in the best interest of the minor. The bill also waives the required investigation and report for a court-appointed legal guardian under certain circumstances. The provision providing a waiver for a court-appointed legal guardian was declared to be an emergency and became effective on May 9, 2023.

#### DOMESTIC VIOLENCE AND CHILD ABUSE

[House Bill No. 1268](#) changes the service requirements for domestic violence protection orders by requiring service of any hearing notice, initial ex parte protection order, or final domestic violence protection order must first be attempted using personal service. If personal service cannot be completed, the court may order service by publication under Rule 4 of the North Dakota Rules of Civil Procedure. The bill also provides for purposes of domestic violence protection orders and temporary protection orders, the term "domestic violence" also includes "stalking," as defined under Section 12.1-17-07.1.

[House Bill No. 1492](#) defines a "mental injury" related to the crime of abuse of a child as an observable and substantial, nontransitory impairment to a child's mental or psychological ability to function within a normal range of performance or behavior.

[House Bill No. 1533](#) creates a new chapter relating to protecting survivors of domestic abuse from abusive litigation. The bill defines "abusive litigation" and related terms, establishes the burden of proof and procedures for restricting abusive litigation, and grants the North Dakota Supreme Court the authority to adopt rules to implement the chapter.

#### PREGNANCY AND ABORTION

[House Bill No. 1450](#) defines "pregnant" to include pregnancy, childbirth, and related medical conditions, as the term applies to employment discrimination under Section 14-02.4-03(2).

[Senate Bill No. 2150](#) updates consent and record keeping laws related to abortion to reflect the definition of "abortion" and exceptions to abortion created by the bill and removes a provision under Section 14-02.1-04 related to exceptions to the prohibition on the performance of an abortion after viability. The bill repeals five sections relating to sex-selective abortions, genetic abnormality abortions, prohibited abortion procedures, and abortions after a detectable heartbeat. This bill requires the Department of Health and Human Services to publish a notice that the performance of abortions is prohibited by law, and for a physician who performs an abortion to report whether the abortion was necessary to prevent death, terminate a pregnancy resulting from rape or incest, or prevent a serious health risk. The bill also provides a procedure to treat a molar pregnancy is not an abortion, modifies the definition of "medical emergency," defines "serious health risk," and removes other definitions in the context of abortion procedures. The bill permits a court to notify the parents or guardian of an unmarried minor seeking an abortion under certain circumstances. The bill was declared to be an emergency measure and became effective on April 24, 2023.

## SPOUSAL SUPPORT

[House Bill No. 1037](#) establishes criteria for spousal support, provides factors to determine the amount and duration of spousal support, prohibits permanent spousal support, limits the duration of spousal support relative to the length of the marriage, authorizes a court to modify a spousal support order, prohibits the modification of lump sum spousal support, creates a rebuttable presumption that spousal support terminates when the payor reaches retirement age for social security purposes, specifies the different types of spousal support, and defines the terms "length of marriage" and "material change in circumstances."

## USE OF PRONOUNS

[House Bill No. 1522](#) prohibits a government entity from adopting a policy requiring or prohibiting the use of or designation of an individual's preferred pronouns in work-related communications and provides an individual may assert a violation of the law as a claim or defense in a judicial proceeding. The bill was declared to be an emergency measure and became effective on May 9, 2023.

[Senate Bill No. 2231](#) would have prohibited a government entity from requiring an employee to use an individual's preferred pronoun or designate the employee's preferred pronoun in work-related communications unless required by law. The bill also would have allowed an individual to assert a violation of the law as a claim or defense in a judicial proceeding. **This bill was vetoed by the Governor on March 30, 2023, and the veto was sustained.**

## MISCELLANEOUS

[House Bill No. 1136](#) prohibits the government from substantially burdening a person's exercise of religion, unless that burden furthers a compelling governmental interest using the least-restrictive means available. The bill also prohibits the government from treating religious conduct more restrictively than secular conduct and provides a claim for relief for a person whose rights are violated.

[House Bill No. 1137](#) updates terminology referencing "deprivation" of a minor with terminology referencing "conditions of a child in need of protection" in a section of law relating to the unlawful act of encouraging, creating, or contributing to the condition of a child in need of protection.

[House Bill No. 1165](#) replaces "executive director" with "commissioner" to update the title of the head of the Department of Health and Human Services and permits the Commissioner to delegate certain duties to a designee.

**TITLE 15**  
**Education**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 15.

The legislation relating to education may be classified in these subject areas--institutions of higher education; scholarships; Board of University and School Lands; Teachers' Fund for Retirement; Center for Distance Education; Career and Technology Center; and miscellaneous.

**INSTITUTIONS OF HIGHER EDUCATION**

[\*\*House Bill No. 1003\*\*](#) creates a matching grant program for agricultural research projects, increases the state aid payment base amounts, increases the amount of the financial assistance grant awarded to eligible students, ensures each institution receives no less than 96 percent of the state aid to which the institution is entitled, requires the State Board of Higher Education to disclose the financial condition of an institution to university president applicant finalists, grants university presidents the authority to adopt policies without authoritative control from faculty, names the Larry C. Skogen Polytechnic Institute, and requires the State Commissioner of Higher Education to report annually to the Legislative Management regarding trends in higher education. The bill removes the sunset date for the skilled workforce student loan repayment program and skilled workforce scholarship program, allows the State Board of Higher Education to transfer money between the two programs, removes the requirement for matching funds for the program to be received from private sources, and removes the sunset date on the State Board of Higher Education's authority to retain 1.5 percent of any funds appropriated to the board for promotion and administration of the programs. The bill increases the amount the State Board of Higher Education may award in matching grants to the University of North Dakota and North Dakota State University from \$1.7 million to \$2.7 million each, increases the amount that may be awarded in matching grants to the University of North Dakota School of Medicine and Health Sciences from \$1.5 million to \$2.2 million, and requires \$250,000 of the amount available for awards to the University of North Dakota be awarded for projects at the School of Law. The bill also increases the amount that may be awarded in matching grants for various other state colleges and universities and specifies how grants must be prioritized. The bill requires institutions to raise 30 percent of the total estimated cost of a capital project for a funding request submitted to the Legislative Assembly, sets the factor for career and technical education credits at 5.0, requires institutions allocating funds for deferred maintenance to use the funds only for academic and student housing facilities, and repeals Sections 15-10-48.1 and 15-10-58 relating to clinical legal education matching grants and the Workforce Education Advisory Council. The provisions of the bill increasing the amount of financial assistance grants to students were declared to be an emergency and became effective on May 9, 2023.

[\*\*House Bill No. 1165\*\*](#) revises the membership of the University of North Dakota School of Medicine and Health Sciences Advisory Council to direct the State Health Officer or the designee of the State Health Officer to serve as one of the two members representing the Department of Health and Human Services.

[\*\*House Bill No. 1241\*\*](#) establishes the Workforce Education Innovation Program to provide award funds to institutions of higher education. The bill defines the allowed uses of award funds and requires the State Board of Higher Education to provide a biennial report on the program to the Legislative Management.

[\*\*House Bill No. 1392\*\*](#) creates two new sections to Chapter 15-10 to permit nonprofit organizations and student organizations to deposit funds into accounts at the Bank of North Dakota held by North Dakota institutions of higher education for specific public purposes. The bill provides expenditures made under these sections may not be construed as a gift for purposes of the gift clause in Section 18 of Article X of the Constitution of North Dakota.

[\*\*House Bill No. 1473\*\*](#) requires restrooms or shower rooms in a dormitory or living facility at an institution controlled by the State Board of Higher Education to be designated for use exclusively by males or females, permits a reasonable accommodation for a transgender or gender-nonconforming student, and clarifies a dormitory administrator or dormitory staff member is not prohibited from entering a restroom or shower designated for the opposite sex in the course of official employment duties.

[\*\*House Bill No. 1489\*\*](#) creates a new chapter requiring institutions of higher education to maintain separate intercollegiate and intramural sports teams for participants of the female sex and defines "sex" according to biological indicators. The bill prohibits males from competing on sports teams specifically designated for female participants but allows for all students to participate on sports teams designated for male or coed participants. The bill protects institutions of higher education from adverse action resulting from the

maintenance of separate sports teams for females, provides causes of action for students and institutions harmed by violations of this chapter, and provides a statute of limitations.

[House Bill No. 1528](#) reduces the duration for which the State Board of Higher Education is required to retain nonstudent employee electronic mail messages from 2 years to 1 year, unless the electronic mail message includes malware or regulated information as defined under Section 54-59.1-01. This bill was declared to be an emergency measure and became effective on July 1, 2023.

[Senate Bill No. 2145](#) exempts a postsecondary career school operating in this state and offering a full-stack software engineering course from accreditation requirements and provides for the exemption to expire August 1, 2025. The bill was declared to be an emergency measure and became effective on April 11, 2023.

[Senate Bill No. 2161](#) removes the sunset date related to the State Energy Research Center.

[Senate Bill No. 2247](#) creates Chapter 15-10.6 to protect a student or employee of an institution of higher education from adverse treatment for refusing to support one of the concepts specified in the bill, including concepts of racial superiority, "race or sex scapegoating," and "race or sex stereotyping," as defined in the bill. The bill prohibits any mandatory training for students or employees based on the specified concepts, including the concept that that the United States is fundamentally racist. The bill also provides guidelines to interpret the chapter, including a prohibition on interpreting the chapter to limit the academic freedom of faculty or infringe on the First Amendment rights granted by the United States Constitution.

[Senate Bill No. 2343](#) requires the State Board of Higher Education to establish a policy ensuring transparent communication between board members and equal access to current and historical information for all board members and to provide a report to the Legislative Management regarding the implementation of the policies. The bill also prohibits the North Dakota University System and the State Board of Higher Education from denying a board member access to a closed or confidential record, unless otherwise prohibited by law.

## SCHOLARSHIPS

[House Bill No. 1030](#) clarifies that only students enrolled in an accredited higher education institution with a physical presence in the state are eligible for a dual-credit scholarship, scholars program scholarship, or Native American scholarship. The bill amends the dual-credit tuition scholarship award amounts, extends the State Board of Higher Education's reporting requirements for academic and career and technical education scholarships through 2030, amends ACT score qualifications for a scholars program scholarship from the 95<sup>th</sup> percentile or above to a composite score of 30 or higher, modifies ranking of scholars program applicants, replaces the word "Indian" with "Native American" as it relates to scholarships for resident members of a federally recognized Indian tribe, and directs the administration and use of Native American scholarship funds. The bill also repeals Section 15-63-07 relating to Native American scholarship refunds.

[House Bill No. 1196](#) removes the condition for a dependent of a qualifying veteran to complete a degree within 45 months or 10 semesters to obtain an undergraduate degree or complete a certificate program from a state institution of higher education free of tuition and charges.

[House Bill No. 1212](#) expands the definition of "dependent" to include the widow or widower of a veteran as defined under Section 37-01-40, for the purpose of eligibility for tuition waivers under Section 15-10-18.3.

[Senate Bill No. 2130](#) expands the definition of "peace officer" to include a correctional officer employed by the state or a political subdivision of the state for purposes of a child or spouse of a deceased peace officer qualifying for free tuition at a state institution of higher education.

## BOARD OF UNIVERSITY AND SCHOOL LANDS

[House Bill No. 1038](#), as part of a technical corrections bill, clarifies the terms "commissioner" and "department" mean the Commissioner of University and School Lands and the Department of Trust Lands as those terms are used in relation to public access to trust lands and vehicular access for hunting on trust lands. The bill also corrects references to the "University of North Dakota medical school" by replacing those references with the entity's proper name, the "University of North Dakota school of medicine and health sciences."

[Senate Bill No. 2049](#) removes the requirement for the Board of University and School Lands to notify the County Treasurer which tracts will be auctioned at least 10 days before a surface lease auction. The bill also provides a lessee that plows uncultivated land forfeits that person's lease, changes the authority to allow an organized event on trust lands from the surface owner to the Commissioner of the Board of University and School Lands, provides the Department of Trust Lands more flexibility to approve beehives located on trust lands, and repeals Section 15-04-18 related to the destruction of timber.

## TEACHERS' FUND FOR RETIREMENT

[House Bill No. 1040](#) excludes an "eligible employee" as defined under Section 54-52-02.15 from counting years of service employment in the Public Employees Retirement System for vesting rights and eligibility purposes in the Teachers' Fund for Retirement (TFFR) effective January 1, 2025.

[House Bill No. 1150](#) permits a retired 20-year veteran of any branch of the military who becomes a teacher in North Dakota to opt-out of the TFFR in the teacher's first year of teaching.

[House Bill No. 1219](#) permits a teacher who has withdrawn from TFFR to buy back the teacher's service credit; removes the "level retirement income with social security option" for receiving annuities from TFFR; prohibits TFFR collections from hours put toward extracurricular activities, substitute teaching, and professional development; and allows for recalculation of a teacher's retirement benefit upon re-retirement. The bill also amends the definition of "retirement annuity" and requirements for TFFR Board reports to the State Investment Board, removes requirements regarding qualified domestic relations orders because the requirements are found in the North Dakota Administrative Code, and provides the computation of years of service are based on hours worked rather than number of days.

## CENTER FOR DISTANCE EDUCATION

[House Bill No. 1156](#) permits the Center for Distance Education to offer dual-credit courses to out-of-state students.

[House Bill No. 1376](#) prohibits a superintendent or an administrator of a school from denying enrollment at the Center for Distance Education and requires a Center for Distance Education student's school district of residence to pay fees prescribed by the State Board for Career and Technical Education.

[Senate Bill No. 2269](#) changes the authority to administer and supervise the Center for Distance Education from the Department of Career and Technical Education to the Superintendent of Public Instruction and State Board of Public School Education. The bill authorizes the Superintendent of Public Instruction to appoint the Director of the Center for Distance Education and requires the Center for Distance Education to have a budget and staff separate from the Department of Public Instruction. This bill was declared to be an emergency measure by Senate Bill No. 2013 and became effective on July 1, 2023.

## CAREER AND TECHNOLOGY CENTER

[House Bill No. 1178](#) removes the requirement for a Career and Technology Center Board member to also be a member of a school board and permits up to five community members to be appointed to the center board provided that fewer community members than school board members serve on the center board. The bill also provides guidelines for the appointment of community members, term limits for community members, and a process to fill community member vacancies.

[House Bill No. 1348](#) amends Career and Technical Center Board membership requirements to allow a school district with more than one center board member to designate a member who is not a school board member, establishes a special board plan for large centers comprised of 20 or more members, requires virtual area career and technology center boards to meet at least quarterly, and defines "virtual area and technology center."

## MISCELLANEOUS

[House Bill No. 1226](#) provides a compliance officer's working papers are exempt from open records requirements under Section 44-04-18. The bill also provides a compliance report released to the governing body or management of the audited entity is confidential until the final report is issued.

[House Bill No. 1448](#) removes the county superintendent of schools from the county board of appraisers.

[House Bill No. 1474](#) amends the definition of "sex," as created by House Bill No. 1489, by changing "and" to "or" to allow a determination of sex to be based on an individual's nonambiguous sex organs, chromosomes, or endogenous hormone profile at birth, rather than determined based on all three elements.

[Senate Bill No. 2053](#) updates terminology by replacing the term "patrolmen" with "patrol troopers" in regard to references to the highway patrol troopers' retirement system.



# TITLE 15.1

## Elementary and Secondary Education

### Summary of Bills Enacted by the 2023 Legislative Assembly

This memorandum summarizes legislation affecting North Dakota Century Code Title 15.1.

The legislation relating to Title 15.1 may be classified in these subject areas--school districts; students and student activities; teachers and curriculum; scholarships and tuition; loans and funding; and miscellaneous.

#### SCHOOL DISTRICTS

[House Bill No. 1120](#) requires members of a school board be given the opportunity to participate in a voluntary recitation of the Pledge of Allegiance at the beginning of each regularly scheduled meeting.

[House Bill No. 1187](#) permits a school district to offer a current employee a signing bonus when the employee takes a new role within the district. The bill also extends the time for which a board may pay installments of a signing bonus from 3 to 5 years and sets parameters to prevent employment poaching through the use of bonuses.

[House Bill No. 1257](#) requires an individual seeking election to the board of a school district to file a campaign contribution statement as required by Section 16.1-08.1-02.3.

[House Bill No. 1270](#) requires a school district to record and archive a school board meeting if requested by a resident of that school district no later than 7 days before the meeting. The bill also requires the school district to make the recording available to the public by publishing a link on the school district's website and providing notice to the public.

[House Bill No. 1337](#) defines "school safety and security measures" which includes security planning, security technology training, and purchasing and installing security equipment, and requires each school district to provide an annual report describing the school district's expenditures relating to school safety and security measures to the Superintendent of Public Instruction, who will provide the report to the Legislative Management.

[House Bill No. 1376](#) prohibits a resident school district from preventing a student from attending a virtual school by denying open enrollment. The bill prohibits a student or a student's family member from receiving any gifts from a virtual school and requires the Superintendent of Public Instruction to provide reports comparing the academic performance of students in virtual schools with those who attend traditional schools. The bill also clarifies students enrolled in an approved virtual school do not generate school district sized weighting factors pursuant to Section 15.1-27-03.2.

[House Bill No. 1494](#) requires a school district participating in the National School Lunch Program to adopt and publish a school meals policy. The policy must include an assurance that a child who has an unpaid student meal balance will receive a meal if requested and a prohibition against stigmatizing a student with an unpaid lunch balance or free or reduced-price meals status.

[House Bill No. 1522](#) prohibits a school board, public school, or public school teacher from adopting a policy that requires or prohibits an individual from using a student's preferred gender pronoun. The bill also directs a school board to establish a plan for a restroom accommodation with a transgender student and the student's parent or legal guardian when needed, prohibits a school board from allowing a transgender student to use a restroom that does not coincide with the student's biological sex, and prohibits a school district, public school, or public school teacher from adopting a policy concerning a student's transgender status without parental approval or withholding information about the student's transgender status from the student's parent. This bill was declared to be an emergency measure and became effective on May 9, 2023.

[Senate Bill No. 2223](#) modifies the requirements for military installation school board members to allow an active or retired member of the military installation or a spouse of an active or retired member who lives within 20 miles of the military installation and is not serving on a school district board to become a school board member. This bill was declared to be an emergency measure and became effective on April 5, 2023.

[Senate Bill No. 2231](#) would have prohibited a public school, school district, or teacher from adopting policies, providing instruction, or providing professional development that recognizes "expressed gender" as defined in the bill. The bill would have allowed teachers to use a student's preferred pronouns when required by federal law if the teacher consulted with the student's parent or guardian and the school administrator but would not have required a teacher to use the student's preferred pronouns unless so required by federal law. **This bill was vetoed by the Governor on March 30, 2023, and the veto was sustained.**

[Senate Bill No. 2254](#) requires the Superintendent of Public Instruction to intervene when a public school or school district is "chronically low performing" as defined in the bill by conducting an assessment to identify areas of insufficient performance and develop an improvement plan that includes a memorandum of understanding, requires a chronically low-performing school or school district to complete a school board leadership program, and requires the Superintendent of Public Instruction to provide a report regarding the intervention implementation to the State Board of Public School Education, an interim committee of the Legislative Management, and the standing education committees during a legislative session. This bill was declared to be an emergency measure and became effective on April 24, 2023.

## **STUDENTS AND STUDENT ACTIVITIES**

[House Bill No. 1131](#) allows a student failing to demonstrate proficiency in a standards-based grading system to request to pursue an optional high school curriculum.

[House Bill No. 1132](#) defines a "military-connected student" and allows a student who is military-connected, has a medical disability preventing the student from physically attending school, or is moving out of this state, to enroll in virtual instruction if desired by the family and approved by the school board of that district, thereby exempting the student from compulsory attendance requirements. The bill also provides a military-connected student engaging in virtual instruction qualifies for average daily membership.

[House Bill No. 1249](#) creates a new chapter requiring elementary and secondary schools to maintain separate interscholastic and intramural sports teams for participants of the female sex and defines "sex" according to biological indicators. The bill prohibits males from competing on sports teams specifically designated for female participants but allows for all students to participate on sports teams designated for male or coed participants. The bill shields elementary and secondary schools from an adverse action resulting from the maintenance of separate sports teams for females, provides a cause of action for students and schools harmed by violations of this chapter, and provides a statute of limitations.

[Senate Bill No. 2099](#) exempts information identifying a minor child which was obtained by the Education Standards and Practices Board during the course of a disciplinary action from the open records requirements under Section 44-04-18.

## **TEACHERS AND CURRICULUM**

[House Bill No. 1144](#) requires each public and nonpublic school teacher, administrator, and counselor to complete and provide documentation to the Department of Public Instruction regarding completion of annual online training related to mandated reporting of suspected child abuse or neglect and requires the training to meet continuing education requirements for license renewal.

[House Bill No. 1231](#) makes the dyslexia screening and intervention pilot program permanent. The bill mandates reading instruction competency for early childhood and elementary teaching licensure and removes the reading instruction competency requirement for secondary teachers. The bill also provides for the creation of a task force to review all statutes in the Century Code relating to literacy, dyslexia, and related teacher training and report its findings and recommendations to the 69<sup>th</sup> Legislative Assembly. The task force is in effect through December 31, 2024.

[House Bill No. 1259](#) exempts individuals employed through the use of temporary funding, grant funds, or overloads from the requirements of Chapter 15.1-15, which governs the contract of a teacher or administrator with a school district.

[House Bill No. 1265](#) requires a school district's health curriculum to include "human growth and development discussion" as defined in the bill, including a high-definition ultrasound video that shows early fetal development and a rendering showing fertilization and development inside the uterus for every week of pregnancy until birth. The bill requires any "human sexuality instruction" as defined in the bill to meet the same requirements. The bill also requires the Superintendent of Public Instruction to ensure these requirements are included in the North Dakota health content standards.

[House Bill No. 1304](#) allows an individual to teach special education for up to 2 years, while completing the individual's general studies, if the individual is enrolled in a bachelor's program with a major in special education, has completed all professional education, special education major-specific coursework, and student teaching, and has passed the test required by the Education Standards and Practices Board. This bill was declared to be an emergency measure and became effective on April 11, 2023.

[House Bill No. 1386](#) makes the youth behavioral health training provided by a school district discretionary rather than mandatory and requires any youth behavioral training offered to qualify for continuing education

credits. The bill also requires a school administrator to recommend appropriate professional development content areas to the school board, which may designate specific professional development for the school or school district.

[House Bill No. 1398](#) adds computer science and cybersecurity to the required instruction for elementary, middle, and high schools and directs each elementary, middle, and high school to develop a computer science and cybersecurity integration plan. The bill allows a unit of computer science or cybersecurity to replace a required unit of science for graduation purposes through July 31, 2025, and mandates the completion of one unit of computer science or cybersecurity for graduation purposes after July 31, 2025, unless the student has completed an approved computer science and cybersecurity integration plan. The bill requires the Superintendent of Public Instruction to provide up to \$300,000 in grants to specified entities to offer computer operations and cybersecurity courses for the biennium beginning July 1, 2023, and ending June 30, 2025.

[House Bill No. 1521](#) streamlines the approval process for alternative curriculum outside the classroom to allow a student to obtain approval from a school board for educational opportunities while allowing the Superintendent of Public Instruction to retain authority to supervise and revoke program approval. The bill also removes the requirement for the Superintendent of Public Instruction to post information regarding alternative curriculum on the Department of Public Instruction's website.

[Senate Bill No. 2028](#) requires a public school district to administer an annual interim assessment to students in kindergarten through grade 10 with a minimum of two assessments in mathematics and reading. The bill also requires the Superintendent of Public Instruction to provide the interim assessment free of charge to school districts and maintain an approved list of alternate interim assessments that school districts may choose to purchase.

[Senate Bill No. 2070](#) authorizes a school district board to extend a teacher's permit for an additional 4 years, up to a maximum of 7 years, for an individual with expertise in certain content areas if the individual also is enrolled in a teacher education program. The bill extends the sunset date on the provision from July 31, 2023, to July 31, 2031.

## SCHOLARSHIPS AND TUITION

[House Bill No. 1030](#) extends the sunset date on the North Dakota scholarship program, consisting of provisions related to the scholarship amounts and eligibility requirements, from July 31, 2024, to July 31, 2030.

[House Bill No. 1156](#) requires a school district board to pay tuition costs for a student to attend a kindergarten program through the Center for Distance Education if requested by the student's parent or guardian.

[House Bill No. 1305](#) creates additional pathways for a student to meet the eligibility requirements for a North Dakota scholarship, including the completion of courses in fine art, world language, indigenous language, or sign language; a score of at least 1180 on an SAT; a score of at least 50 on an ASVAB test, or a score of 31 in conjunction with the successful completion of basic training in one of the branches of the United States military; completion of two units of junior reserve officers' training corps; and completion of phase one of the cadet civil air patrol program.

[House Bill No. 1382](#) allows students eligible for the North Dakota scholarship, North Dakota academic scholarship, or North Dakota career and technical education scholarship to access scholarship funds in the amount of \$500 each term while enrolled in a qualifying registered apprenticeship program in the state. The bill directs the State Board of Higher Education to establish procedures to administer the scholarship, requirements for eligibility, and a payment schedule.

[House Bill No. 1532](#) would have established an educational reimbursement program to reimburse qualified nonpublic schools for qualified education expenses of program participants. **This bill was vetoed by the Governor on April 21, 2023, and the veto was sustained.**

## LOANS AND FUNDING

[House Bill No. 1161](#) clarifies for purposes of a school district's eligibility to borrow from the state school construction fund, the Bank of North Dakota may issue the loan through the purchase of a school district's building fund bonds, in addition to the purchase of a school district's general obligation bonds, and requires the school district to publish tax impact information in the notice of opportunity to protest when seeking bond approval.

[House Bill No. 1238](#) extends from July 1, 2023, to July 1, 2027, the date by which the Superintendent of Public Instruction shall begin deducting from a school district's state aid formula payment any amount of the

school district's unobligated general fund balance which exceeds 35 percent of the district's actual expenditures, plus \$50,000.

**Senate Bill No. 2015** increases the maximum amount of a loan for which a school district may qualify from the coal development trust fund from \$2 million to \$5 million and expands eligibility for a loan during the 2023-25 biennium for expenses due to unanticipated construction inflation. The bill allows a school district to sell evidences of indebtedness under Chapter 21-02 or 21-03 to finance a construction or improvement project. The bill also amends the school funding formula to move the 10 percent reduction that would have been in year 7 of the 7-year transition minimum phase-out to the 2023-24 school year and provides for a 15 percent reduction for the remaining years until all school districts are on the funding formula without any reduction.

**Senate Bill No. 2233** requires the school construction assistance revolving loan fund to be audited annually pursuant to Section 6-09-29.

**Senate Bill No. 2284** addresses construction inflation by increasing the maximum loan amount for which a school district is eligible from the school construction revolving loan fund from \$10 million to \$15 million for construction projects of less than \$75 million, and up to \$30 million for construction projects of \$75 million or more. The bill allows a school district to refinance construction loans secured on the open bond market with the school construction assistance revolving loan fund and provides additional funding to accompany the initial loan provided under the school construction assistance revolving loan fund to school districts that received loans before the loan threshold increase. The bill also modifies the weighting factors for calculating state aid for each school district, revises school district policy on reviewing and reporting the effects of demographics and enrollment, amends the definition of "probationary teacher," permits private tutors on public school premises, defines "dangerous weapon," and expands a school district's governing policy for dangerous weapons to include a referral mechanism to the criminal justice or juvenile delinquency system.

**Senate Bill No. 2380** allows a school district or special education unit to jointly employ either a superintendent or school district business manager or jointly employ a special education unit director or special education unit business manager, rather than having to jointly employ both positions for purposes of qualifying for the administrative cost-sharing program. The bill also revises the administrative cost-sharing reimbursement structure and extends the sunset date for the cost-sharing program to June 30, 2026.

## MISCELLANEOUS

**House Bill No. 1123** increases the number of members on the Kindergarten through Grade Twelve Education Coordination Council to include four, rather than three, members of the Legislative Assembly and directs the manner in which the legislator members are selected. The bill also adds another gubernatorial appointee to the committee, to ensure the committee has representation from both a public elementary school teacher and a public secondary school teacher. The bill removes the requirement for the council to establish a one-stop communication and information hub and increases the number of times the council must meet per biennium from four to six.

**House Bill No. 1448** adds an annual training requirement for the county superintendent of schools as secretary of the county committee to attend training provided by the Superintendent of Public Instruction and the North Dakota Association of Counties.

**House Bill No. 1474** amends the definition of "sex," as created by House Bill No. 1249, by changing "and" to "or" to allow a determination of sex to be based on an individual's nonambiguous sex organs, chromosomes, or endogenous hormone profile at birth, rather than determined based on all three elements.

**Senate Bill No. 2013** permits a student's school of residence to release the student to attend another school if deemed necessary because the student has a disability or significant medical condition. The bill updates language relating to students with a disability or significant medical condition and adjusts state aid to account for high-cost and special education students. The bill also increases the salary of the Superintendent of Public Instruction from \$130,323 to \$138,142 beginning July 1, 2023, and to \$143,668 effective July 1, 2024.

**Senate Bill No. 2167** changes the notice requirement for a parent to file a statement of intent to home school the parent's child from 14 days to 5 days before beginning home education. The bill also requires a services plan team for a homeschooled child with a developmental disability to provide notice to the superintendent of the child's school if the child is not making adequate progress or maintaining progress based on academic ability.

# TITLE 16.1

## Elections

### Summary of Bills Enacted by the 2023 Legislative Assembly

This memorandum summarizes legislation affecting North Dakota Century Code Title 16.1.

[House Bill No. 1165](#) replaces "state health officer" with "department of health and human services" as the entity responsible for reporting to the Secretary of State the names of recently deceased individuals and name changes resulting from marriage for purposes of maintaining the central voter file.

[House Bill No. 1192](#) removes the word "electronic" in references to "electronic voting systems." The bill changes the meeting date of the canvassing board from the sixth to the thirteenth day after the election, permits a mail ballot precinct board to begin scanning mail ballots 3 business days before the election, changes the deadline for the county auditor to transmit an abstract of certified votes to the Secretary of State from the eighth to the thirteenth day after a general or primary election, and adjusts state law to comply with federal law relating to the date presidential electors are required to meet following a presidential election.

[House Bill No. 1230](#) makes it unlawful for an individual, measure committee, or other organization to willfully submit an initiative or referendum petition that contains one or more fraudulent signatures. The bill provides separate organizational and individual penalties for any offenders under the newly created offense. A violation by any member of a measure committee is subject to a civil penalty of not more than \$3,000, which may be recovered in an action brought by the Attorney General in the district court of Burleigh County. A violation by an organization operating a signature gathering business, that also commits fraud, is subject to a Class A misdemeanor and is prohibited from conducting business for 5 years following the entry of judgment.

[House Bill No. 1257](#) requires a candidate for a school district office to report the total amount of contributions the candidate received during the reporting period if the contributions total more than \$200. The requirement does not apply to a candidate for a school district office in a school district with a fall enrollment of fewer than 1,000 students, or a candidate committee for the candidate. The bill clarifies the report is not subject to the audits performed by the Secretary of State under Section 16.1-08.1-05.

[House Bill No. 1273](#) would have prohibited the use of a ranked-choice voting method or an approval voting method to determine the election or nomination of any candidate to any local, state, or federal elective office. **The bill was vetoed by the Governor on April 6, 2023, and the veto was sustained.**

[House Bill No. 1324](#) allows the Secretary of State to exercise discretion as to the validity of signatures and other irregularities in a petition, giving the Secretary of State the power to determine which signatures may be counted. The bill further provides if the counted signatures do not equal or surpass the number of signatures required for a measure to be placed on a ballot, the Secretary of State may bar the measure from being on the ballot. The bill creates a presumption that the Secretary of State's decision to bar a measure from being on the ballot is lawful. The presumption may be rebutted upon a showing of clear and convincing evidence that the action was unlawful. The bill provides a definition of "clear and convincing evidence."

[House Bill No. 1424](#) specifies contact information candidates and political committees must include with campaign finance reports. The bill also requires candidates for Congress or state office to provide the Secretary of State's office with a valid nongovernment issued electronic mail address with a candidate's certificate of endorsement or nominating petition.

[House Bill No. 1431](#) allows an individual who asserts the individual is a citizen, but who presents identification that indicates the individual is a noncitizen, to mark a ballot that must be placed in a sealed envelope and set aside by the pollworker. The bill provides for a vote to be counted by the canvassing board, the individual must present identification indicating the individual is a United States citizen.

[Senate Bill No. 2163](#) requires the Secretary of State, in consultation with the Attorney General, to print on the ballot for a constitutional amendment or measure, initiated measure, referred measure, or any other question or measure to be voted on a summary of the measure in plain, clear, and understandable language.

[Senate Bill No. 2292](#) makes it an election offense to cause a disturbance, breach the peace, or obstruct a qualified elector or election board member on the way to or at a polling place. The bill establishes who is permitted to be an election observer and how polling places must be arranged for the observers.

[Senate Bill No. 2352](#) provides officers and executive committee members immunity from civil liability for their actions or inactions related to their roles unless their behavior can be categorized as gross or willful negligence or gross or willful misconduct. The bill also insulates members of a political organization from liability or payment for an obligation of the organization.

**TITLE 17**  
**Energy**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 17.

[House Bill No. 1215](#) removes a cross-reference to the repealed Chapter 54-60.1, relating to reporting requirements for state grants of business incentives, in a reporting requirement provision pertaining to the North Dakota Transmission Authority.

[Senate Bill No. 2233](#) requires the State Auditor or an independent certified public accounting firm to audit annually the biofuel partnership in assisting community expansion fund, with the cost of the audit being paid from the fund.

[Senate Bill No. 2261](#) prohibits construction liens for wind turbines and associated facilities from attaching to the land upon which the improvement is located.

**TITLE 18**  
**Fires**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 18.

[Senate Bill No. 2211](#) transfers the authority to appoint and supervise the State Fire Marshal from the Attorney General to the Insurance Commissioner and updates corresponding references. The bill changes the fund in which various fees for services provided by the State Fire Marshal are deposited from the Attorney General's operating fund to the insurance regulatory trust fund operating fund. The bill requires the Insurance Commissioner to pay \$1,200,000 from the insurance regulatory trust fund to the North Dakota Firefighter's Association by August 1 of each year and to determine and disburse the amount of insurance premium taxes collected from the insurance lines to the certified city fire departments, certified rural fire departments, and certified fire protection districts. The bill requires the State Fire Marshal to report all suspected cases of arson to the Bureau of Criminal Investigation and furnish investigation reports to the Bureau of Criminal Investigation and state's attorney. The bill also requires the North Dakota Firefighter's Association to send the State Fire Marshal a statement of the necessary appropriation for the succeeding biennium and to report quarterly to the State Fire Marshal.

# TITLE 19

## Foods, Drugs, Oils, and Compounds

### Summary of Bills Enacted by the 2023 Legislative Assembly

This memorandum summarizes legislation affecting North Dakota Century Code Title 19.

The legislation relating to food, drugs, oil, and compounds may be classified in these subject areas--controlled substances, medical marijuana, and miscellaneous.

#### CONTROLLED SUBSTANCES

[House Bill No. 1459](#) creates a criminal penalty for a defendant who manufactures, delivers, or possesses with an intent to deliver a controlled substance in, on, or within 300 feet of a public park. For purposes of this offense, marijuana and tetrahydrocannabinol do not qualify as a controlled substance.

[Senate Bill No. 2015](#) expands the special criminal penalty created in Senate Bill No. 2248 for causing the death or injury of an individual who consumes a controlled substance to include the individual who willfully delivers the controlled substance, or supplies another to deliver the controlled substance, if the individual consuming the substance dies or is injured from consuming the controlled substance.

[Senate Bill No. 2093](#) updates Chapter 19-03.1, known as the Controlled Substance Act, with the most recent changes to the list of Schedule I, IV, and V controlled substances to conform with the changes made by the Drug Enforcement Administration. This bill was declared to be an emergency measure and became effective on April 13, 2023.

[Senate Bill No. 2096](#) clarifies an allowed hemp commodity or product that complies with all product testing and labeling requirements under the federal Food, Drug, and Cosmetic Act and administrative rules is not tetrahydrocannabinol, a Schedule I controlled substance under the Controlled Substance Act.

[Senate Bill No. 2248](#) creates a special criminal penalty for death or injury if an individual willfully supplies another in delivering a controlled substance to an individual who consumes the controlled substance and that individual dies or is injured from overdosing. The bill requires the Department of Health and Human Services to conduct a fentanyl awareness campaign and submit an annual written report to the Legislative Management and the Governor summarizing the annual number of deaths related to fentanyl.

#### MEDICAL MARIJUANA

[House Bill No. 1038](#), as part of a technical corrections bill, corrects a grammatical error referencing the plant of the genus cannabis.

[House Bill No. 1165](#) authorizes the appointment of a designee to serve in place of the State Health Officer as the ex officio voting member and chairman of the medical marijuana advisory board.

[House Bill No. 1478](#) allows an applicant for a medical marijuana registry identification card to submit medical records verifying admittance to a hospice program in lieu of the written certification otherwise required, and waives application fees for hospice patients. The bill also authorizes the waiver of a criminal history record check for a designated caregiver of a qualifying patient admitted to a hospice program.

[Senate Bill No. 2068](#) increases the cumulative amount of cannabinoid concentrate and medical cannabinoid product a registered qualifying patient may purchase or have purchased by a registered designated caregiver within a 30-day period from 4,000 to 6,000 milligrams.

[Senate Bill No. 2078](#) provides a 30-day appeal process relating to denials of an application for a medical marijuana registry identification card and revocation of a registry identification card by the Department of Health and Human Services. The bill also provides discretion to the Department of Health and Human Services regarding whether to refer criminal complaints against a cardholder to law enforcement.

[Senate Bill No. 2102](#) adds a definition for "agent," "manager," and "member," relating to medical marijuana compassion centers.

[Senate Bill No. 2201](#) reduces the nonrefundable application fee for a medicinal marijuana registry identification card from \$50 to \$25 and requires the Department of Health and Human Services to pay fees for criminal history record checks. The bill also limits the application or renewal fee for a registry identification card for a compassion center agent to no more than \$200 and reduces from \$10,000 to \$7,500 the fee a manufacturing facility must pay to the Department of Health and Human Services for every 500 additional plants the facility possesses in excess of 1,000.



[Senate Bill No. 2388](#) provides additional circumstances under which the Department of Health and Human Services shall deny an application for renewal relating to a qualifying patient's medical marijuana registry identification card or an application for or renewal of a designated caregiver registry identification card. The bill requires a 1-year revocation for an initial revocation of a registry identification card and a 5-year revocation for second revocation of a registry identification card. The bill also allows an employer to discipline an employee for working with marijuana in the employee's system. The bill was declared to be an emergency measure and became effective on April 12, 2023.

### **MISCELLANEOUS**

[House Bill No. 1138](#) adds a mental health court to the list of available placement options for individuals serving a probationary sentence relating to a drug offense. The bill provides if an individual convicted of a felony drug offense successfully completes a mental health court program, the individual's felony conviction is lowered to a misdemeanor. The bill also provides if the individual is convicted of a misdemeanor drug offense, the case will be dismissed and sealed upon successful completion of the program.

[Senate Bill No. 2378](#) prohibits a pharmacy benefits manager, third-party payer, or the agent of a pharmacy benefits manager or third-party payer from requiring a patient to purchase prescription drugs exclusively through a mail-order pharmacy or a pharmacy benefits manager affiliate as a condition of reimbursement or otherwise negatively impacting a patient's access to a clinician-administered drug due to the drug not being dispensed by a mail order pharmacy or pharmacy benefits manager affiliate.

**TITLE 20.1**  
**Game, Fish, Predators, and Boating**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 20.1.

[House Bill No. 1134](#) provides current North Dakota National Guard members who live out of state the same hunting and fishing rights as those who hold in-state resident licenses, with the exception of receiving a lottery permit or license.

[House Bill No. 1224](#) allows a dog handler to carry a handgun during the recovery of a big game animal if the handler is in the presence of the dog. The bill prohibits the dog handler from using a handgun in any way to assist in the recovery of a big game animal and defines an "immediate area" as an area within 100 yards of the big game animal. The bill also requires a dog handler carrying a handgun to receive permission from a landowner before entering the landowner's property to recover a big game animal.

[House Bill No. 1233](#) removes the provision limiting youth deer hunters to hunting deer only during the youth deer hunting season.

[House Bill No. 1260](#) allows the Director of the Game and Fish Department to develop agreements relating to compensation for private landowners regarding habitat development and land access. The bill also allows the Director of the Game and Fish Department to issue special antlerless elk depredation management licenses to landowners in designated areas, on the condition that landowners provide reasonable access to hunt elk and do not charge fees for elk hunting.

[House Bill No. 1366](#) allows an individual to engage in barefoot water skiing or surfing without wearing a life preserver if the individual is wearing a wetsuit specifically designed for barefoot water skiing or surfing and the vessel towing the individual has a life preserver approved by the Game and Fish Department on board.

[House Bill No. 1409](#) removes reciprocity requirements to allow all nonresident youth hunters to obtain a license and hunt the full regular small game and waterfowl hunting seasons.

[House Bill No. 1538](#) allows the Director of the Game and Fish Department to issue permits for fishing contests of 50 or more people or 15 or more boats. The bill excludes a nonprofit veterans organization, charitable organization, educational organization, religious organization, fraternal organization, civic and service organization, or public-spirited organization from being charged a conservation fee for holding a fishing contest. The bill requires the organization holding a fishing contest to meet certain conditions and follow certain procedures to be granted a fishing contest permit. The bill also imposes a \$5 surcharge on each nonresident fishing license for deposit in the newly created fishing conservation fund. The bill becomes effective on April 1, 2024.

[Senate Bill No. 2053](#) replaces references to "highway patrolman" with "highway patrol trooper" in regard to the individuals authorized to enforce boating laws under Chapter 20.1-13.

[Senate Bill No. 2297](#) broadens the lifetime combination license program by including nonresident volunteer instructors certified by the Game and Fish Department and granting a nonresident volunteer instructor a complimentary composite of licenses equivalent to the lifetime combination license issued to resident volunteer instructors. The bill also expands the lifetime combination license program to include all volunteer instructors meeting the 30 years of service requirement. This bill was declared to be an emergency measure and became effective on April 12, 2023.

[Senate Bill No. 2382](#) removes the exemption from numbering a motorboat if the Game and Fish Department determines numbering will not materially aid in the identification of the motorboat or the motorboat is documented with the United States Coast Guard.

**TITLE 21**  
**Governmental Finance**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 21.

[House Bill No. 1088](#) alters the membership of the State Investment Board by replacing the Insurance Commissioner with the Director of Office of Management and Budget as a member, reducing the number of members from the Teachers' Fund for Retirement Board from three to two, replacing one member of the Public Employees Retirement System Board with two members appointed by the Governor who are familiar with institutional investments, and increasing the legislative members from one to two members, one from the Senate and one from the House of Representatives, who serve on the Legacy and Budget Stabilization Fund Advisory Board. The bill also replaces the Insurance Commissioner with the Director of the Office of Management and Budget as a member on the Legacy and Budget Stabilization Fund Advisory Board. This bill was declared to be an emergency measure and becomes effective July 1, 2023.

[House Bill No. 1379](#) adjusts the formula by which the State Treasurer is required to transfer and allocate legacy fund earnings. On July 1 of odd-numbered years, the bill requires the State Treasurer to transfer, from the amount available for appropriation or transfer from the legacy earnings fund, the first \$102,624,000 or an amount equal to the amount appropriated from the legacy sinking and interest fund for debt service payments for the biennium, whichever is less, to the legacy sinking and interest fund; the next \$225,000,000 to the general fund to provide support for tax relief initiatives approved by the Legislative Assembly; the next \$100,000,000 to the legacy earnings highway distribution fund; and any remaining funds equally split between the general fund and the strategic investment and improvements fund. The bill requires any amounts exceeding the amount available for appropriation to be transferred 50 percent to the general fund and 50 percent to the strategic investment and improvements fund. This bill was declared to be an emergency measure and becomes effective July 1, 2023.

[House Bill No. 1429](#) expands the definition of "social investment" to include consideration of environmental, social, and governance impact criteria and prevents any state entity from investing public funds solely for the purpose of social investment.

[House Bill No. 1447](#) expands the list of funds invested by the State Investment Board to include the opioid settlement fund. This bill was declared to be an emergency measure and became effective May 1, 2023.

[Senate Bill No. 2015](#) would have changed the definition of legacy fund "earnings" from 7 to 8 percent of the 5-year average value of the legacy fund assets as reported by the State Investment Board. **Section 30 of this bill was vetoed by the Governor on May 9, 2023.**

[Senate Bill No. 2036](#) adds water resource boards to the list of political subdivisions that may invest their general funds dollars or the balance in any special or temporary fund in various instruments including bonds, treasury bills and notes, securities, certificates of deposit, savings deposit, state and local securities, and commercial paper.

[Senate Bill No. 2330](#) expands the stated goals of the Legacy and Budget Stabilization Fund Advisory Board to include growing the principal of the legacy fund at an appropriate level of risk. The bill modifies the target asset allocation for the investment of the principal of the legacy fund from stated percentages to fixed dollar amounts. The bill modifies the target allocation to fixed income investments within the state from 10 percent of the principal of the legacy fund to \$700 million, provides \$150 million of that amount, rather than 40 percent, may be for infrastructure loans to political subdivisions, sets the minimum amount for the Bank of North Dakota's certificate of deposit loan program at \$400 million, and allows the Legacy and Budget Stabilization Fund Advisory Board to create guidelines for other qualified fixed income investments within the state. The bill modifies the target allocation for equity investments in the state from 10 percent of the principal of the legacy fund to \$600 million, eliminates the 3 percent minimum for equity investments, and allows funds to be invested based on guidelines developed by the Legacy and Budget Stabilization Fund Advisory Board. The bill also modifies the definition of "earning" for purposes of the legacy fund to mean an amount equal to 7 percent of the 5-year average value of the legacy fund assets as reported by the State Investment Board using the value of the assets at the end of each fiscal year for the 5-year period ending with the most recently completed even-numbered fiscal year. This bill was declared to be an emergency measure and became effective on May 1, 2023.

**TITLE 22**  
**Guaranty, Indemnity, and Suretyship**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

There was no 2023 legislation enacted which affected North Dakota Century Code Title 22.

# TITLE 23

## Health and Safety

### Summary of Bills Enacted by the 2023 Legislative Assembly

This memorandum summarizes legislation affecting North Dakota Century Code Title 23.

The legislation relating to health and safety may be classified in these subject areas--department organization, final disposition, licensed entities, vaccines, vital records, and miscellaneous.

#### Department Organization

[House Bill No. 1165](#) updates language to reflect the integration of the Department of Human Services and State Department of Health to align with the current structure and duties of the Department of Health and Human Services. The bill replaces references to "executive director" with "commissioner" to update the title of the head of the Department of Health and Human Services; defines the powers and duties of the Public Health Division and the Central Public Health Laboratory within the department; authorizes the department to employ surge staff for deployment to areas with staff shortages; revises the duties of the State Health Officer and the Health Council; clarifies an appeal of a medical hospital license denial, suspension, nonrenewal, or revocation must be taken to the Office of Administrative Hearings before it can be appealed to district court; and clarifies the membership of the Emergency Medical Services Advisory Council. The bill repeals three sections of Chapter 23-01, relating to the health division; a biennial report provided by the department regarding the Health Division, county and district boards of health, and the hospital program; and the treatment and reporting of sexually transmitted diseases.

[Senate Bill No. 2102](#) removes a reference to the State Health Officer as the individual who designates a current employee of the Department of Health and Human Services to complete a state and national criminal history record check.

[Senate Bill No. 2227](#) requires the Health Council to assure the coordination of the Health Division with all other health activities of the state; revises the membership of the Health Council by increasing membership from 9 to 12 members, diversifying the communities represented, and granting health professionals and the State Health Officer, rather than the Governor, the power to appoint a member to the Health Council; and expands the powers and duties of the Health Council.

#### Final Disposition

[House Bill No. 1363](#) excludes a surviving spouse from having the duty of final disposition of the surviving spouse's deceased spouse if the surviving spouse intentionally and feloniously killed the deceased spouse.

[Senate Bill No. 2139](#) provides the duty of final disposition of a deceased individual who is indigent may devolve to a mortician or funeral director if no other individual has accepted the duty of final disposition. The bill also provides for an expedited process to arrange for and provide supervision of indigent final disposition; sets final disposition reimbursement at \$3,500 for indigent decedents; and provides that absent contrary religious beliefs, indigent final disposition must be conducted by cremation.

#### Licensed Entities

[House Bill No. 1028](#) amends the definition of "home health services" to add an "allowed practitioner" to the list of medical professionals who may grant the approval needed to provide an individual with home health services. The bill defines the term "allowed practitioner" to mean a physician assistant or advanced practice registered nurse.

[House Bill No. 1045](#) provides the required time limit by which the Department of Health and Human Services shall make an initial determination on the construction, renovation, or construction and renovation of a health facility with a cost of more than \$4 million and less than \$15 million is 56 days of receipt of a complete application, and for a project with a cost exceeding \$15 million the department shall provide notice of the amount of time the department will require to complete the review.

[House Bill No. 1050](#) exempts from the hospital licensure requirements a facility that is an American Society of Addiction Medicine level 3.7 substance use treatment program licensed by the Department of Health and Human Services which is independent from a medical hospital.

[House Bill No. 1290](#) extends the moratorium on increasing basic care and nursing facility bed capacities through July 31, 2025.

[Senate Bill No. 2081](#), as part of a bill that repeals the chapter of law relating to maternity hospitals, replaces references to "maternity hospital" with "medical hospital."

[Senate Bill No. 2082](#), in the law regulating food and lodging establishments, defines the terms "child care food service establishment" and "transient guest," expands the definition of a "food establishment" to include a mobile or temporary food establishment, and clarifies the meaning of the term "lodging establishment." The bill also provides every lodging establishment and assisted living facility in the state is subject to the state fire code.

[Senate Bill No. 2243](#) requires a new owner of a mobile home park or a licensee licensed under Section 23-10-03 annually to provide to the Department of Health and Human Services the name, address, and telephone number of the park managers and any individual owning more than 20 percent of the park. The bill authorizes the department to assess a civil penalty of up to \$5,000, for deposit in the department's general operating fund, against an owner or licensee for noncompliance. The bill also authorizes the department to suspend and revoke a recreational vehicle park or campground license and to suspend a mobile home park license.

### **Vaccines**

[House Bill No. 1207](#) requires the Department of Health and Human Services to display, on a website maintained by the department, a link to the federal vaccine adverse event reporting system, as well as instructions on how to report an adverse event and access state-specific data.

[House Bill No. 1502](#) provides a hospital may not deny treatment or services to an individual based on that individual's COVID-19 vaccination status.

[Senate Bill No. 2274](#) removes the sunset clause on the law prohibiting a private business or entity of the state or a political subdivision of the state from requiring an individual to provide information on that individual's COVID-19 vaccination status for certain purposes and expands application of the law to include an individual's vaccination status for a vaccine that is under emergency use authorization from the federal Food and Drug Administration.

### **Vital Records**

[House Bill No. 1139](#) clarifies a birth record must include designation of the sex of the child, which must be designated as either male or female, and provides the designation of the sex of a child on a birth record may indicate "not yet determined" only in cases in which the sex of the child cannot be determined based on the child's nonambiguous sex organs, chromosomes, or endogenous hormone profile at birth. This summary reflects the amendment to this bill by House Bill No. 1474.

[House Bill No. 1297](#) provides a sex designation on a birth record cannot be changed unless the sex designation was incorrectly listed on the original record as a result of an error, the sex designation was misidentified on the original record as supported by genetic testing and a medical affidavit, or the sex designation requires updating to reflect an individual's sex change as certified by a medical provider.

[House Bill No. 1326](#) authorizes the Commissioner of Veterans' Affairs to access the death record of an individual designated as having served in the United States armed forces.

[Senate Bill No. 2379](#) defines "homeless youth" and "homeless youth agency" and adds homeless youth agencies to the list of persons that may be issued a certified copy of a birth record for the purpose of assisting homeless youth in the care of the agency. This bill was declared to be an emergency measure and became effective on April 13, 2023.

### **Miscellaneous**

[House Bill No. 1038](#), as part of a technical corrections bill, corrects an improper reference in the definition of a "lodging establishment."

[House Bill No. 1111](#) provides any regulation from an international health organization is unenforceable unless adopted through the legislative process or by executive order.

[House Bill No. 1229](#) creates an exception from smoking restrictions for a cigar lounge if the cigar lounge is certified by the Tax Commissioner, has a humidor, has proper ventilation, and is solidly enclosed. The bill requires at least 15 percent of the annual gross income from the cigar lounge to be generated from the sale of cigars for the cigar lounge to receive certification from the Tax Commissioner.

[\*\*House Bill No. 1365\*\*](#) clarifies that a county or city may provide for emergency medical services if emergency medical services are not provided by a licensed ambulance service; clarifies that a political subdivision that owns an ambulance service or provides for emergency medical services may qualify for state financial assistance; and requires certain ambulance services in rural communities to hold rural ambulance service district organizational meetings and to organize a rural ambulance service district by June 30, 2025.

[\*\*House Bill No. 1390\*\*](#) establishes the suicide fatality review commission. The bill authorizes the Commissioner of the Department of Health and Human Services to appoint members and select the presiding officer of the commission from the commission's membership; provides the goals, policies, procedures, and requirements of the commission; and directs the commission to report annually to the Commissioner on any findings and recommendations.

[\*\*House Bill No. 1447\*\*](#) expands accessibility to opioid antagonists to treat an opioid overdose. The bill loosens regulations to allow a health care professional acting in good faith to prescribe, distribute, and dispense an opioid antagonist without first providing training on overdose prevention. The bill also removes language that limited who is allowed to receive or possess an opioid antagonist. The bill was declared to be an emergency measure and became effective on May 1, 2023.

[\*\*House Bill No. 1481\*\*](#) expands the list of individuals who may receive a certified copy of a complete death record to include a coroner, medical examiner, or the state forensic examiner, for purposes of reporting the facts of the death.

[\*\*Senate Bill No. 2085\*\*](#) amends the law regarding the acute cardiovascular emergency medical system by removing a reference to an expired data platform.

[\*\*Senate Bill No. 2125\*\*](#) provides an individual appointed as an agent to make health care decisions no longer is required to sign the optional health care directive form.

[\*\*Senate Bill No. 2153\*\*](#) provides the minimum core functions a public health unit shall provide. The bill includes as core functions communicable disease control; chronic disease and injury prevention; environmental public health; maternal, child, and family health; and access to clinical care.

[\*\*Senate Bill No. 2302\*\*](#) prohibits discrimination against a recipient of an organ transplant solely on the basis of the recipient's mental or physical disability.

**TITLE 23.1**  
**Environmental Quality**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 23.1.

[House Bill No. 1024](#) requires money recovered by the Department of Environmental Quality in an action or administrative proceeding based on a violation of a state environmental statute to be credited to the environmental quality restoration fund. The bill provides uncommitted or unrestricted money exceeding \$5 million in the environmental quality restoration fund on July 1 in any year must be transferred to the general fund.

[House Bill No. 1089](#) authorizes the Department of Environmental Quality to adopt rules related to solid waste pilot projects. The bill provides, upon the receipt by the Legislative Council of certification from the Department of Environmental Quality that solid waste management facility and transporter permit transfer rules have been adopted, permits issued by the department for solid waste management facilities and solid waste transporters become transferable. The bill removes the requirement for the Department of Environmental Quality to obtain approval from the State Water Commission to administer and disburse funds in accordance with Section 1452(a) of the federal Safe Drinking Water Act and consult with the State Water Commission before establishing assistance priorities and expending grant funds for the drinking water treatment revolving loan fund. The bill repeals Section 23.1-08-05, relating to commercial oilfield special waste recycling facilities and actions against well operators.

[House Bill No. 1090](#) defines "ground water" for purposes of regulating coal combustion residuals and adds wind turbine blades to the list of items that may not be placed in municipal waste or discarded or disposed of in a landfill. Section 1 of this bill was declared to be an emergency and became effective February 23, 2023.

[House Bill No. 1108](#) provides climate control-related regulations of an international organization are not enforceable on the state.

[Senate Bill No. 2074](#) exempts from an open records request the names and addresses of landowners and operators who participate in a pesticide ground water monitoring program. The bill provides the procedures to access land for purposes of ground water monitoring are not applicable to ground water monitoring from wells installed or required to be installed by a state agency.

[Senate Bill No. 2075](#) modifies the definition of "tank" for purposes of petroleum release remediation to allow for the tank to contain petroleum, ethanol, and biodiesel and specifies a tank used to store ethanol or biodiesel for wholesale purposes with a capacity of greater than 20,000 gallons is not considered a "tank" for purposes of petroleum release remediation. The bill also changes a requirement to be eligible for reimbursement for a percentage of the costs of corrective action following a release of petroleum from a tank from full compliance with state and federal rules applicable to the tank to substantial compliance with applicable rules of the United States Environmental Protection Agency, the State Fire Marshal, and the Department of Environmental Quality.

[Senate Bill No. 2076](#) provides the types of individuals or occupations for which the Department of Environmental Quality may request a criminal history background check from the Bureau of Criminal Investigation and allows the Department of Environmental Quality to require an applicant for a radioactive materials license or solid waste permit to complete a statewide and federal criminal history background check as part of an environmental compliance background review. The bill also provides reasons for denial of an application for issuance, renewal, transfer, or major modification of a license or permit based on the applicant's environmental compliance background review.

[Senate Bill No. 2118](#) amends numerous provisions related to abandoned motor vehicles, including provisions regarding qualifications for immediate disposal of an abandoned motor vehicle, eligibility for storage cost reimbursement, and the procedure for taking, disposing, and selling abandoned motor vehicles. The bill also clarifies that the Department of Environmental Quality issues permits for qualified scrap iron processors instead of licenses and allows the Department of Environmental Quality to reimburse for commercial towing services for removal and disposal of abandoned motor vehicles if the owner, lienholder, or secured parties of the abandoned motor vehicle cannot be identified. This bill was declared to be an emergency measure and became effective April 13, 2023.



# TITLE 24

## Highways, Bridges, and Ferries

### Summary of Bills Enacted by the 2023 Legislative Assembly

This memorandum summarizes legislation affecting North Dakota Century Code Title 24.

The legislation relating to highways, bridges, and ferries may be classified in these subject areas--Department of Transportation, bridge and highway names, and miscellaneous.

#### DEPARTMENT OF TRANSPORTATION

[House Bill No. 1079](#) allows the Director of the Department of Transportation to contract with adjoining states and provinces to inspect and test products or materials needed for highway construction.

[House Bill No. 1102](#) authorizes the Director of the Department of Transportation to enter contracts and cooperate with the federal government in the administration of grants and other discretionary funding mechanisms. The bill authorizes the Department of Transportation to accept all eligible matching fund sources, whether public or private, and deposit these funds into the flexible transportation fund. This bill was declared to be an emergency measure and became effective on April 29, 2023.

[Senate Bill No. 2063](#) authorizes the Director of the Department of Transportation to enter agreements and accept any federal or nonstate funds for the administration of reimbursable electric vehicle charging grant programs. The bill requires the cost-share for a project to consist of only federal, public, political subdivision, or private funding and prohibits a political subdivision from having an ownership interest in an electric vehicle charging station. The bill requires any federal formula funding grants for reimbursement to be at least 10 percent and less than 80 percent of the cost-share for a project. The bill requires the Director to establish grant criteria considering operation and maintenance expenses of the stations. The bill requires the Department of Transportation to present a report to the Legislative Management regarding an update on the deployment and administration of electric vehicle charging stations before July 1, 2024.

[Senate Bill No. 2110](#) allows the Department of Transportation to enter a cooperative agreement with the Theodore Roosevelt National Park for the joint maintenance of the park's transportation network. The bill requires state money spent on the park's transportation system to be fully reimbursed by the federal government.

[Senate Bill No. 2113](#) creates a flexible transportation fund. The bill allows the Director of the Department of Transportation to expend money in the fund to meet federal matching requirements and for construction and maintenance costs for state-funded road and bridge projects both on and off the state highway system. Provisions of the fund were further amended in House Bill No. 1012 and Senate Bill No. 2015.

#### BRIDGE AND HIGHWAY NAMES

[House Bill No. 1012](#) designates State Highway 13 from Edgeley to LaMoure as the Trooper Beryl McLane Memorial Highway. The bill also further amends provisions relating to the flexible transportation fund created by Senate Bill No. 2113. The bill requires the Director of the Department of Transportation to receive Budget Section approval for any project using more than \$15 million from the flexible transportation fund except for projects that match federal or private funds and the amount utilized from the fund is 50 percent or less of total project costs, and provides direction for how the Director must allocate at least 25 percent of motor vehicle excise tax collections deposited in the flexible transportation fund pursuant to Section 57-40.3-10 for non-oil-producing county and township road and bridge projects.

[House Bill No. 1117](#) designates the bridge on State Highway 18 between Island Place and Park Street East in Cavalier as the Veterans Memorial Bridge.

[House Bill No. 1351](#) designates the southernmost bridge on State Highway 1806 between Country Road 134 and 71<sup>st</sup> Street in Cannonball as the PVT. Albert Grass WWI Bridge.

[House Bill No. 1352](#) designates the bridge on State Highway 30 between the junction of 17<sup>th</sup> Street NE and the junction of 19<sup>th</sup> Street NE as the Petty Officer Third Class Patrick G. Glennon Vietnam Bridge.

[House Bill No. 1354](#) designates the overpass on US Highway 281 between 24<sup>th</sup> Street SW and 20<sup>th</sup> Street SW in Jamestown as the Hidden Wounds Veterans Overpass.

[House Bill No. 1355](#) designates the bridge on State Highway 6 between State Highway 24 and County Road 134 near Breien as the PFC. Ronald C. Goodiron Vietnam Bridge.

[Senate Bill No. 2146](#) designates State Highway 91 from the junction of US Highway 52 and State Highway 91 to the junction of State Highway 91 and State Highway 3 as North Dakota's Shortest Highway.

## MISCELLANEOUS

[House Bill No. 1060](#) removes the requirement for a truck with a 129,000 pound permit to purchase a separate 80,000 to 105,500 pound interstate system permit for the same load.

[House Bill No. 1127](#) increases the threshold amount over which a county must seek bids from \$100,000 to \$200,000 for highway improvements and from \$30,000 to \$200,000 for bridge rebuilding or repair. The bill provides an exception to seeking bids for highway improvements if a road is destroyed by a flood or other casualty and public interest would suffer as a result of the delay from seeking bids. The bill requires a county to seek quotes from at least two contractors for road or bridge improvement contracts ranging in cost from \$50,001 to \$200,000. The bill also requires the board of county commissioners to post at least one advertisement for bids per week for 2 consecutive weeks, the first publication of which must be at least 15 days before the board meeting. The bill allows the board of county commissioners to reject all bids if no satisfactory bids are received. The bill also repeals Section 24-08-09, which limited to \$300,000 the cost to a county for a bridge built over a navigable river.

[Senate Bill No. 2015](#) further amends provisions of the flexible transportation fund, as amended in Section 10 of House Bill No. 1012, by lowering the threshold project expenditure amount that requires Budget Section approval from an amount over \$15 million to an amount over \$10 million.

[Senate Bill No. 2053](#) changes the term "patrolmen" to "patrol troopers" as the term is used in Title 24.

[Senate Bill No. 2295](#) removes a cross reference to Section 26.1-23-03 in Section 24-02-01.1(2) due to the repeal of Chapter 26.1-23.

# TITLE 25

## Mental and Physical Illness or Disability

### Summary of Bills Enacted by the 2023 Legislative Assembly

This memorandum summarizes legislation affecting North Dakota Century Code Title 25.

[House Bill No. 1043](#) defines the term "serious risk of harm", for purposes of psychotherapeutic intervention, as a substantial likelihood of suicide, homicide or harm to another, or substantial deterioration in health or substantial injury; amends the criteria for a child to be admitted to a psychiatric residential treatment facility for children to include situations in which the child meets the definition of serious risk of harm or in which a less restrictive setting cannot meet the immediate treatment need; and changes the education requirements for a program director of a psychiatric residential treatment facility for children from a master's degree in social work, psychology, or a related field to a bachelor's degree in one of those areas of study and replaces the requirement for 2-years of experience in treating children with mental illnesses or emotional disturbances with a requirement for professional experience in working with children with mental illness or emotional disturbances.

[House Bill No. 1165](#) updates the law to reflect the integration of the Department of Human Services and State Department of Health and to align with the current structure and duties of the Department of Health and Human Services; replaces references to "executive director" with "commissioner" to update the title of the head of the Department of Health and Human Services; and allows the Commissioner to delegate certain duties to a designee.

[Senate Bill No. 2051](#) requires a psychiatric residential treatment facility for children to secure two sets of fingerprints from the facility operator and any individual employed by the facility or contracted to provide services for the facility, or who is a nonemployee of the facility, if those individuals will have contact with any child cared for at the facility. The bill also revises the requirements for licensure for the operation of a psychiatric residential treatment facility for children, including adding a showing the facility sought and obtained a criminal history record as required by law, and a determination by the Department of Health and Human Services the applicant meets the requirements provided by rules adopted by the department.

[Senate Bill No. 2052](#) updates the law relating to the Life Skills and Transition Center to align the law with the current purpose and service practices of the center, including clarifying the superintendent of the center is a classified position, updating who is eligible to receive services from the center, updating when the superintendent may transfer and discharge an individual, updating the law regarding juvenile court orders for assessment of children with developmental disabilities, and revising the law regarding access to records of an internal quality assurance review committee of the center.

[Senate Bill No. 2083](#) updates references to the "mentally ill" and "individuals suffering from drug addiction or alcoholism" with references to "individuals with severe mental illness" and "individuals with a substance use disorder" in regard to individuals receiving services at the State Hospital. The bill also authorizes the State Hospital to provide behavioral health collaborative care and consultation services with private providers and correctional facility providers. The provision relating to authorization to provide behavioral health collaborate care and consultation services was declared to be an emergency and became effective on March 15, 2023.

[Senate Bill No. 2225](#) includes clinical nurse specialists within the class of professionals who may prescribe mood stabilizers or antipsychotic medications to an individual who is committed.

[Senate Bill No. 2286](#) provides a peace officer transporting an arrested or detained individual maintains the peace officer's power of arrest, detention, and transport throughout the entire state during a transport or detention.

[Senate Bill No. 2335](#) amends the definition of the term "developmental disability", as the term is used in the law relating to developmental disabilities, to include fetal alcohol spectrum disorders.

# TITLE 26.1

## Insurance

### Summary of Bills Enacted by the 2023 Legislative Assembly

This memorandum summarizes legislation affecting North Dakota Century Code Title 26.1.

The legislation relating to insurance may be classified in these subject areas--automobile insurance, health insurance, and miscellaneous.

#### Automobile Insurance

[House Bill No. 1440](#) amends the law regarding transportation network companies (TNCs) and delivery network companies (DNCs). The bill defines "engaged stage" as the period commencing when a driver accepts a ride request on the TNC's platform until the "passenger on-board stage" begins. The bill requires TNCs and participating drivers to have insurance for the "passenger on-board stage" and the "engaged stage." The bill defines a "delivery network company" as an entity using a digital network to connect DNCs to delivery drivers who provide services. The bill also defines additional terminology associated with app-based delivery services. The bill requires the DNC to disclose to the delivery network driver insurance coverage and potential limitations of the driver's automobile insurance policy while performing delivery services. The bill requires the DNC to ensure primary automobile liability insurance is in place during the delivery service and delivery available periods. The bill also requires the DNC to have liability and uninsured motorist coverage and personal injury protection and to cooperate in claim coverage investigations, assuming primary liability for a claim when a dispute arises.

[Senate Bill No. 2295](#) repeals Chapter 26.1-23 relating to the unsatisfied judgment fund, which provided money to a resident who could not collect compensation if the resident was injured by an uninsured motorist. The bill also provides the requirements for insurers to create a North Dakota automobile insurance plan to provide insurance to applicants who are in good faith entitled to but who are unable to procure automobile insurance through ordinary means.

#### Health Insurance

[House Bill No. 1095](#) requires health insurance plans to provide comprehensive medication management services. The bill requires a health insurer to provide coverage for licensed pharmacists to provide comprehensive medication management to eligible enrollees and to maintain an updated directory of participating pharmacists in the carrier's network. The bill specifies the standards of comprehensive medication management and qualifying conditions of eligible enrollees; directs the Commissioner of the Department of Health and Human Services to establish and facilitate a Comprehensive Medication Management Advisory Committee; and directs the Comprehensive Medication Management Advisory Committee to report best practice recommendations to the Insurance Commissioner and Department of Health and Human Services no later than June 30, 2024.

[House Bill No. 1416](#) requires a health insurer that is part of an integrated delivery network to accept qualified providers into its health plans if the provider is within the geographic coverage area and the provider meets the insurer's terms and conditions of participation. The bill applies to health benefit plans offered or sold on or after December 31, 2024. **This bill was vetoed by the Governor on April 13, 2023, and the veto was overridden.**

[Senate Bill No. 2135](#) requires dental insurance coverage providers to allow policy holders to assign reimbursement services directly to the provider.

[Senate Bill No. 2140](#) as part of a bill that provides for a 2-year Public Employees Retirement System health insurance mandate for insulin drug and supply coverage, clarifies the required benefits also apply to a self-insurance health plan under Chapter 26.1-36.6.

[Senate Bill No. 2349](#) exempts nonprofit agricultural membership organizations from regulation under the state's insurance laws, except the bill requires any health care coverage provided by a nonprofit agricultural membership organization to be reinsured by an insurance company. The bill prohibits a nonprofit agricultural membership organization from providing health care coverage unless the organization has filed with the Insurance Commissioner verification that the organization meets certain requirements and requires health care coverage to be sold by a licensed insurance agent. The bill requires the health care coverage to offer benefits under a self-funded plan and requires the health care coverage to state the coverage is not insurance and is not subject to the laws governing insurance.

## Miscellaneous

[House Bill No. 1038](#) as part of a bill that makes technical corrections, corrects outdated internal cross references in Sections 26.1-05-19(24), 26.1-05-19(34), and 26.1-17-33.1(7).

[House Bill No. 1094](#) establishes geographical jurisdiction for filing criminal charges in an insurance fraud claim.

[House Bill No. 1189](#) exempts prepaid legal service plans from regulation by the Insurance Commissioner under the state's insurance laws.

[House Bill No. 1429](#) prohibits an insurer from refusing to insure or charging a different rate based solely on the risk's environmental, social, and governance criteria; diversity, equity, and inclusion policies; or political and ideological factors, unless the refusal or rate is the result of sound underwriting and actuarial principles related to actual or reasonably anticipated loss experience.

[Senate Bill No. 2010](#) as part of the Insurance Commissioner's appropriation bill, increases the salary of the Insurance Commissioner from \$114,486 to \$130,000 through June 30, 2024, and to \$135,200 thereafter. The bill provides a government self-insurance pool is subject to limited regulation under the state's insurance laws and provides a government self-insurance pool record is subject to open records laws.

[Senate Bill No. 2055](#) permits the Insurance Commissioner to withdraw an incomplete insurance license application for an insurance producer or consultant; removes the requirement to display a social security number or Internal Revenue Service identification number on an insurance license for an insurance producer and consultant; requires an insurance producer and consultant to notify the insurance commissioner when the licensee's electronic mail address changes; updates a cross reference to automobile rental company licensure relating to a business acting as an insurance producer; reduces from \$150 to \$50 the maximum business entity licensing fee for a business entity acting as a public adjuster; changes the license renewal deadline for a life insurance broker and provider from the anniversary date of issuance to on or before April 30<sup>th</sup>; and changes the expiration date of a business entity public adjuster license to the last day of the month following the 2-year anniversary of issuance. The bill also repeals the laws regarding fees for issuance of replacement copies of insurance producer and consultant licenses and the requirement for an insurance producer and consultant to return a suspended or revoked license to the Insurance Commissioner due to licenses being issued digitally rather than on paper.

[Senate Bill No. 2056](#) removes a requirement for fire insurance policy premium and loss reporting requirements to an advisory organization before the Insurance Commissioner may grant or renew an insurance company's certificate of authority. The bill removes the requirement for the Insurance Commissioner to calculate interest when issuing an insurance premium tax credit and the requirement for an insurer to report information on the insurer's experience with hospital and medical insurance. The bill also replaces the requirement for the Board of Directors of the Reinsurance Association of North Dakota to schedule an independent biennial audit of the Association with a requirement for an audit performed by an independent auditor or the State Auditor unless an audit has been performed pursuant to the federal Affordable Care Act.

[Senate Bill No. 2172](#) enacts the Interstate Insurance Product Regulation Compact to uphold state regulation of the insurance market when filing, reviewing, and approving asset-based insurance. The bill provides for the appointment of one individual from the state to serve on the Interstate Insurance Product Regulation Commission, creates an opt-out process, and allows insurers the ability to file products in a central filing system.

[Senate Bill No. 2173](#) enacts the Travel Insurance Model Act and aligns state law with this model act.

[Senate Bill No. 2211](#) requires the Insurance Commissioner to manage, control, and supervise the State Fire Marshal. The bill also increases the amount of insurance premium tax collections that may be deposited in the insurance tax distribution fund by removing the limitation that not more than half the biennial amount of insurance premium tax collections appropriated for distribution be deposited in the insurance tax distribution fund.

[Senate Bill No. 2305](#) removes the requirement for a surplus lines insurance producer to include in the report of placement filed with the Insurance Commissioner a signed statement certifying efforts to place coverage with an admitted insurer. The bill also exempts certain licensed surplus line insurance producers from conducting a diligent search to acquire insurance from an authorized insurer if the risk was referred to the surplus line insurance producer by a licensed insurance producer. The bill also removes the application of fines or license suspension or revocation for providing falsified information in a certified diligent search statement due to the removal of the requirement to submit the statement.

**TITLE 27**  
**Judicial Branch of Government**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 27.

The legislation relating to the judicial branch may be classified in these subject areas--court operation and procedures, juvenile court, and miscellaneous.

**COURT OPERATION AND PROCEDURES**

[House Bill No. 1002](#) increases the salary of each North Dakota Supreme Court Justice from \$169,162 to \$179,312, through June 30, 2024, and to \$186,484 thereafter. The bill increases the additional per annum amount for the Chief Justice from \$4,784 to \$5,071, through June 30, 2024, and to \$5,274 thereafter. The bill increases the salary of a District Court judge from \$155,219 to \$164,532, through June 30, 2024, and to \$171,113 thereafter. The bill increases the additional per annum amount for a presiding judge of a judicial district from \$4,410 to \$4,675, through June 30, 2024, and to \$4,862 thereafter, increases juror compensation from \$50 to \$100 for each day of required attendance as a juror, and increases juror compensation for 4 hours or less of attendance as a juror from \$25 to \$50.

[House Bill No. 1038](#) allows the North Dakota Supreme Court to authorize the Information Technology Department to inspect juvenile court records and files for use in the statewide longitudinal data system.

[House Bill No. 1058](#) requires the North Dakota Supreme Court to award reasonable attorney's fees to a prevailing appellee who is a party to an appeal from a district court ruling over a small claims action.

[House Bill No. 1536](#) incorporates into the Century Code the placement preferences, court proceedings, procedures, and adoptee information requirements from the federal Indian Child Welfare Act.

[Senate Bill No. 2045](#) extends through January 1, 2034, numerous provisions relating to the temporary court of appeals.

[Senate Bill No. 2243](#) expands the jurisdiction of the small claims court to include tenant claims for civil damages arising out of a violation of the statutory provisions pertaining to mobile home parks.

[Senate Bill No. 2345](#) requires the North Dakota Supreme Court to establish a task force on guardianship monitoring to address accountability and the protections of individuals under guardianship. This bill directs the task force to recommend to the North Dakota Supreme Court the regulations necessary to enhance the guardianship monitoring program.

**JUVENILE COURT**

[House Bill No. 1137](#) makes several changes regarding the state's juvenile court and justice provisions, including the procedures for referring a child who has committed a delinquent act to the juvenile court, court-ordered parental reimbursement of indigent defense fees, and release of court records for purposes of the scoring of the detention screening tool. The bill also clarifies the process for referral of school-based infractions or misdemeanors, and corrects references omitted in error by the 67<sup>th</sup> Legislative Assembly during the development of the new Juvenile Court Act.

[House Bill No. 1160](#) authorizes the Department of Corrections and Rehabilitation to supervise adults adjudicated for the commission of juvenile offenses. The bill authorizes the juvenile court to order supervision of a child under probation by court officers or the Department of Juvenile Services. The bill eliminates the exclusive jurisdiction of district courts when juvenile offenders are not prosecuted before age 20 by providing that a juvenile offender, age 25 or older, would have the burden to prove amenability to treatment and rehabilitation in juvenile court. The bill also allows juvenile authorities to request a court extend an order of disposition by up to 1 year when necessary to complete treatment goals, even when the child has reached the age of 20. This bill was declared to be an emergency measure and became effective on April 13, 2023.

[House Bill No. 1263](#) requires the Director of Juvenile Court or the Director's designee to make referrals for children to participate in the individual justice planning process. The bill defines "individual justice planning" as a process to identify, accommodate, and develop appropriate consequences for behaviors caused by or related to an individual's mental or cognitive impairment.

[Senate Bill No. 2224](#) creates an exception to the exclusive original jurisdiction of the juvenile court for the appointment of a guardian of a minor becoming an incapacitated adult under Chapter 30.1-28. The bill allows an attorney to represent a child if the child is of sufficient age and competency to assist the counsel, requires

the court to make appropriate findings to support the appointment of counsel, and removes the age of majority being age 21 regarding minors needing foster care.

### **MISCELLANEOUS**

[Senate Bill No. 2080](#) provides if a fit and willing relative interested in adoption is not located after conducting a diligent and exhaustive search, a human service zone director or licensed child-placing agency that places a child for adoption shall consider granting the adoptive placement to a licensed, certified, or approved family foster home for children provider interested in adopting the child, if the licensed, certified, or approved family foster home for children provider provided foster care to the child for 1 year or longer without any disciplinary action being taken against the provider. The changes become effective on October 1, 2024.

[Senate Bill No. 2267](#) increases the maximum number of attorneys who may participate in the rural recruitment assistance program at any given time from four to eight attorneys.

**TITLE 28**  
**Judicial Procedure, Civil**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 28.

[House Bill No. 1055](#) removes the administrative rules made by the Office of Management and Budget under Section 32-12.2-14 relating to the Risk Management Motor Vehicle Accident Review Board from the list of administrative agencies excluded from the Administrative Agencies Practice Act.

[House Bill No. 1291](#) extends the length of time in which a judgment creditor or a duly appointed representative can enforce a judgment by execution from 10 to 20 years after the entry of the judgment.

[Senate Bill No. 2053](#) changes the term "patrolmen" to "patrol troopers" in regard to the highway patrol troopers' retirement board.

[Senate Bill No. 2206](#) increases the value of exemptions a debtor may claim from a bankruptcy final judgment. The bill increases the amount that may be claimed in lieu of the homestead exemption from up to \$10,000 to up to \$25,000, the motor vehicle exemption in one vehicle from \$2,950 to \$10,000, the motor vehicle exemption in a motor vehicle to accommodate a physically disabled owner from \$32,000 to \$50,000, the debtor's interest in tools and other implements from \$1,500 to \$10,000, and the debtor's interest in life insurance from \$8,000 to \$100,000. The bill prohibits the exemption of any cash deposit not previously scheduled to be made in a life insurance policy or nonqualified annuity in the previous 12 months. The bill increases retirement accounts exemptions from \$100,000 to \$200,000 for one account and from \$200,000 to \$400,000 in aggregate for all accounts.

[Senate Bill No. 2282](#) extends the statute of limitations for sexual assault, sexual abuse, gross sexual imposition, and other civil claims based on sexual acts or contacts as defined in Chapter 12.1-20. The bill provides the claim must be commenced within 9 years after the date the act occurred; or within 21 years after the act occurred, if the act occurred when the plaintiff was under 18 years of age. For plaintiffs under 15 years of age at the time the act occurred, the 21-year period of limitation does not begin to run until the plaintiff has reached the age of 15. The bill also applies to claims against the state or its employees for sexual assault, sexual abuse, and gross sexual imposition.



**TITLE 29**  
**Judicial Procedure, Criminal**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 29.

[House Bill No. 1087](#) clarifies that summary dismissal and summary disposition are separate concepts by removing the elements of summary disposition from the statute relating to summary dismissal and inserting those elements in a new statute relating to summary disposition.

[House Bill No. 1145](#) extends the statute of limitations for all felony level sexual assault crimes listed under Chapter 12.1-20 to 7 years.

[House Bill No. 1289](#) authorizes the court to waive all unpaid court fees and fines that were imposed in a criminal judgment for a defendant who has successfully completed a drug court program. The bill applies retroactively to an offense committed before April 12, 2023, was declared to be an emergency measure, and became effective on April 12, 2023.

[House Bill No. 1453](#) requires the North Dakota Supreme Court to create a uniform bail schedule in cooperation with the state district courts. The bill provides the factors the North Dakota Supreme Court must consider when setting the standard bail amounts and provides the court the discretion to adjust the standard bail amounts as needed or at the request of the district courts. The bill also requires the bail schedule to be implemented by August 1, 2024.

[Senate Bill No. 2043](#) defines electronic communication information and provides the procedures state officials and employees must adhere to when obtaining a warrant for electronic communication information. The bill provides a warrant for electronic communication information may be extended for up to 30 days if the owner or possessor of the information has not produced the information within 10 days of the initial warrant. The bill also extends the validity of a warrant for search or inspection from 24 hours to 10 days.

[Senate Bill No. 2106](#) repeals antiquated statutory provisions relating to the plea of once in jeopardy.

[Senate Bill No. 2286](#) provides a definition for the term "peace officer" and extends a peace officer's authority statewide when transporting an individual who is under arrest or is being detained under Chapter 25-03.1.

**TITLE 30.1**  
**Uniform Probate Code**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 30.1.

[Senate Bill No. 2222](#) establishes new procedures relating to conservatorships and guardians ad litem. The bill requires a guardian ad litem to assess the protected person's ability to attend a hearing either in person or by remote means, establishes a conservator may receive reasonable compensation and reimbursement from the protected person's estate and provides the manner in which reasonable compensation is determined by the court, expands the list of persons entitled to a copy of the beginning inventory of a protected person's estate, and provides the process by which a conservator may request authorization to sell the real property of the protected person. The bill also creates a new section relating to the appointment of an emergency conservator.

[Senate Bill No. 2224](#) creates a new section to Chapter 30.1-28 relating to guardianship proceedings for a minor becoming an incapacitated adult. The bill requires the procedure relating to the appointment of a guardian for a child becoming an incapacitated adult to be the same procedure used during the appointment of a guardian for an incapacitated adult. The bill allows any person interested in the welfare of a child to file a petition for guardianship. The bill provides the procedure for termination or modification of guardianship and the extension of an emergency order for guardianship. The bill also provides the manner in which reasonable compensation for a guardian is determined by the court.

[Senate Bill No. 2225](#) requires a petition for a proposed guardianship to state whether authority is sought for involuntary treatment with prescribed mood stabilizers or antipsychotic medication. The bill establishes the procedure for a guardian to seek court authorization for involuntary treatment of a ward with prescribed medication, the manner in which the hearing must be held, the maximum duration for which a guardian is authorized to continue involuntary treatment with prescribed medication, and exceptions allowing treatment facilities to render medical care if the care is immediately necessary. The bill also defines the term "refusal" for purposes of determining when a guardian refuses to accept prescribed mood stabilizers or antipsychotics for the individual subject to a guardianship.

[Senate Bill No. 2381](#) requires the recorder of a testator's will to deliver the testator's will to the appropriate court upon the written request of an interested person. The bill requires the will to be delivered by hand if the recorder is located in the same county, or delivered by certified mail with a return receipt if the recorder is located in another county.

**TITLE 31**  
**Judicial Proof**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 31.

[House Bill No. 1338](#) authorizes a licensed peace officer to collect samples of saliva for deoxyribonucleic acid testing and submit those samples to the State Crime Laboratory in kits approved or provided by the State Crime Laboratory. The bill also allows personnel from an agency outside the state to collect and submit samples with the approval of the State Crime Laboratory. The bill was declared to be an emergency measure and became effective on March 30, 2023.

**TITLE 32**  
**Judicial Remedies**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 32.

[House Bill No. 1038](#), which relates to technical corrections, changes a reference in Section 32-19-41(6) from Chapter 47-30.1 to Chapter 47-30.2.

[House Bill No. 1055](#) eliminates the risk management motor vehicle accident review board and requires the Department of Transportation to review all crashes or incidents in which a state employee is issued a traffic citation involving a state vehicle. The bill allows the department to defer to the determination and recommendations of the agency employing the individual or, for drivers who habitually receive citations or who have been in repeated crashes, allows the department to revoke, suspend, or restrict that individual's ability to drive a state-owned or state-leased vehicle.

[House Bill No. 1243](#) provides a definition for the terms "apparently wholesome food" and "apparently fit grocery product" and provides immunity from lawsuits to a restaurant, grocery store, individual, or entity offering apparently wholesome food or apparently fit grocery products free of charge unless the food was provided in a manner that constitutes intentional misconduct or gross negligence.

[House Bill No. 1284](#) increases the liability limit for charitable organizations from \$250,000 to \$375,000 per person for monetary 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, and provides for an annual adjustment of the liability limits in 2025, 2026, and 2027. The provision providing the initial increase and annual adjustments was declared to be an emergency measure and became effective on July 1, 2023. The bill also increases the liability limit for charitable organizations to \$575,000 per person and \$2 million for any number of claims arising from a single occurrence beginning July 1, 2029.

[Senate Bill No. 2041](#) repeals Section 32-03-58 relating to the distribution of intimate images without or against consent and replaces the repealed provision with the Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act.

[Senate Bill No. 2072](#) allows the Office of Management and Budget to provide an electronic method of service for garnishment documents and waive the \$25 fee required to create an affidavit of disclosure to encourage the use of electronic service.

[Senate Bill No. 2109](#) allows an agency to purchase routine or standardized products that contain adhesive contract terms if the agency, Attorney General's Office, and the Office of Management and Budget determine the purchase does not pose a reasonable risk of loss and does not exceed \$1,000.

[Senate Bill No. 2282](#) extends the statute of limitations on claims brought against a political subdivision or its employees based on sexual assault, sexual abuse, gross sexual imposition, or other claims based on sexual acts or contacts as defined in Chapter 12.1-20. The claims must be commenced within 9 years after the date the act occurred; or within 21 years after the date the act occurred if the act occurred when the plaintiff was under 18 years of age. For plaintiffs under 15 years of age, the 21-year period of limitation does not begin until the plaintiff has reached 15 years of age. The bill waives the 180 day notice requirement to the Office of Management and Budget of a claim against the state or a state employee if the claim for relief resulted from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in Chapter 12.1-20.

**TITLE 34**  
**Labor and Employment**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 34.

[Senate Bill No. 2132](#) allows minors 14 and 15 years of age to work as sports attendants at a professional sporting event and exempts these minors from the time and hour requirements otherwise applicable to minors 14 and 15 years of age. The bill was declared to be an emergency measure and became effective April 13, 2023.

[Senate Bill No. 2170](#) allows minors 16 and 17 years of age to work in a hazardous occupation if the minor is in a registered apprenticeship program or is a student learner of an approved career and technical education program. The bill requires a parental signature for the minor to participate as an apprentice or student learner.

[Senate Bill No. 2249](#) requires the Labor Commissioner to meet with the occupational and professional boards regulated under Title 43, the Education Standards and Practices Board, and the State Board of Law Examiners to survey and analyze the administration, continuing education, and licensing requirements of the boards, and directs the commissioner to develop a strategy for more efficient continuing education requirements and more efficient practices for licensing out-of-state practitioners.

**TITLE 35**  
**Liens**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 35.

[\*\*House Bill No. 1323\*\*](#) clarifies language relating to the definition of "owner", for purposes of construction liens, and construction lien applicability to tenants, general contractors, and subcontractors. The bill also clarifies notice requirements relating to improvements and provides a lien for improvements ordered by a tenant of leased real estate is not allowed unless the legal or equitable owner had actual or constructive notice of the improvement and failed to object to the improvement.

[\*\*Senate Bill No. 2261\*\*](#) requires all recorded construction liens for a wind turbine or electric energy conversion facility to be accompanied by a written statement clarifying the portion of the property subject to the lien, unless the owner of the freehold estate also owns the leasehold for the wind turbine or electric energy conversion facility.

[\*\*Senate Bill No. 2311\*\*](#) broadens the definition of "pipeline" by including related facilities laid and designed to transport any kind of liquid or gaseous substances. The bill prohibits a well or pipeline construction lien from extending to a freehold estate unless the owner of the freehold estate also is an owner of the leasehold for oil or gas purposes or any pipeline for which the labor, materials, or services were supplied. The bill requires all recorded liens under the chapter to be accompanied by a written statement clarifying the property subject to the lien, unless the owner of the freehold estate also is the owner of the leasehold. The bill also prohibits any person that performs labor or furnishes materials or services for well or pipeline construction under Chapter 35-24 from claiming or maintaining a general construction lien under Chapter 35-27.

**TITLE 36**  
**Livestock**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 36.

[House Bill No. 1101](#) makes the collection of fees by the Agriculture Commissioner for the cost of distributing brucellosis tags, identification tags, and health books permissive rather than mandatory. The bill requires all fees collected for distributing tags and health books to be deposited into the Agriculture Commissioner's operating fund and appropriated on a continuing basis to the State Board of Animal Health for the enforcement of Chapter 36-01.

**TITLE 37**  
**Military**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 37.

[House Bill No. 1038](#), as part of a technical corrections bill, corrects a formatting error in Section 37-01-16 pertaining to the crimes of unlawful conversion of military property and unlawful wearing of uniforms and devices indicating rank.

[House Bill No. 1053](#) updates the term "burn ban" to "burn restriction" to allow local jurisdictions greater flexibility in implementing tiered restrictions relative to risk rather than a total ban on open burning.

[House Bill No. 1069](#) creates a new chapter to Title 37 relating to the pay and benefits received by National Guard members. The bill provides a National Guard member called to state active duty by the Governor is entitled to pay and allowances at the highest rate provided for a National Guard member of the same grade in the United States National Guard and is entitled to other incentive pay and active duty pay enhancements. A member of the National Guard serving on a board or commission as directed by the Governor is entitled to receive pay at the highest rate provided for a National Guard member of the same grade in the United States National Guard. The bill also repeals Sections 37-04-08, 37-04-09, 37-04-11, 37-04-12, 37-04-13, and 37-07-05, regarding expenses and pay of officers and enlisted members of the National Guard. This bill was declared to be an emergency measure and became effective on March 15, 2023.

[House Bill No. 1070](#) creates a hazard mitigation revolving loan fund and outlines the powers and duties of the Department of Emergency Services in administering the fund. The bill provides the Department of Emergency Services may apply for and accept grants from the Federal Emergency Management Agency or other federal agencies for deposit in the fund. The bill allows money in the fund to be used for purposes authorized under the federal Safeguarding Tomorrow through Ongoing Risk Mitigation Act.

[House Bill No. 1071](#) requires a local emergency management organization that is a member of the state regional emergency management program to compensate the state at a specified rate of no more than half of the regional coordinators' salary and benefits. If multiple counties within a region participate, the amount of compensation must be proportioned based on population.

[House Bill No. 1109](#) adds a definition for "armed forces," "military," and "uniformed services," to Title 37 to align with federal law.

[House Bill No. 1165](#) amends the definition of "emergency" by replacing "state health officer" with "department of health and human services" in the list of entities responsible for determining whether the deployment of volunteer health practitioners is necessary.

[House Bill No. 1167](#) prohibits the Governor from issuing an executive order that suspends or amends a provision in statute, order, or rule relating to a state or local requirement regarding the minimum number of physical polling places.

[House Bill No. 1182](#) creates a reimbursement program, administered by the Department of Veterans' Affairs, to reimburse veterans' service organizations for providing a funeral service at a military honors funeral.

[House Bill No. 1193](#) authorizes an officer or employee of the state who is in the National Guard or Federal Reserve to use up to 20 days of absence without loss of pay if leave is required for any military duty or travel to and from a duty station on a day in which the public officer or employee is scheduled to work.

[House Bill No. 1222](#) removes the requirement to have served for at least 20 years or have served in a combat zone from the definition of a "veteran," extending the term to include all currently serving and honorably discharged service members. This bill also amends the list of documentation accepted in an application for veteran's preference to include certification of an upcoming honorable discharge from the applicant's unit command in lieu of a DD-214.

[House Bill No. 1250](#) defines the term "designated electronic communication" as it relates to the agreed electronic system of communication to be used by a governmental agency to communicate to a veteran eligible for preference in hiring that the individual was not selected, and by the veteran to communicate a request to appeal the decision.

[House Bill No. 1389](#) expands the pool of individuals eligible for admission to the North Dakota Veterans' Home to include service members of the United States Armed Forces, National Guard, or Reserve who were



discharged or released under other than dishonorable conditions, who do not meet the definition of a "veteran" under Section 37-01-40, and who are enrolled in Department of Veterans' Affairs health care before admission to the Veterans' Home.

**Senate Bill No. 2094** creates a tuition grant program for qualified National Guard members enrolled in an out-of-state accredited postsecondary education institution. The bill defines the term "out-of-state" and the requirements for a National Guard member to qualify for the grant. The bill also requires the National Guard to provide a report to the Legislative Management on tuition grant usage by June 1, 2024.

**Senate Bill No. 2095** updates Century Code with references to the most current version of the Uniform Code of Military Justice and the Federal Servicemembers Civil Relief Act. The bill also extends the date through which any principal, interest, and income accrued in the National Guard training area and facility development trust fund may be expended from June 30, 2023, to June 30, 2029.

**Senate Bill No. 2117** repeals Section 37-17.3-11 relating to the imposition of a fee to access the statewide seamless base map subscription service.

**Senate Bill No. 2204** amends the definition of "veteran" for purposes of the veterans' aid fund loan program to include a current member of the National Guard or Reserve or a former member of the National Guard or Reserve if the member was discharged for reasons other than dishonorable conditions. The bill also permits a remarried surviving spouse of a veteran to receive a loan from the veterans' aid fund.

**TITLE 38**  
**Mining and Gas and Oil Production**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 38.

[\*\*House Bill No. 1272\*\*](#) authorizes the Industrial Commission to establish a new well status of enhanced oil recovery potential. The bill requires the Industrial Commission to provide notice and a hearing for review of a well's enhanced oil recovery potential status when a surface owner requests a review of the status and the well has been on enhanced oil recovery potential status for at least 12 years. The bill also provides a surface owner the right to request a review of enhanced oil recovery status every 2 years after receiving notice and hearing.

[\*\*Senate Bill No. 2057\*\*](#) requires the Industrial Commission to provide notice of a public permit hearing to individuals and entities by mail or third-party commercial delivery, tracking service requested, to the individual's or entity's last address of record. The bill also requires the Industrial Commission to provide notice of the hearing by publication when the individuals or entities cannot be served.

[\*\*Senate Bill No. 2058\*\*](#) authorizes the Industrial Commission to regulate the location and operation of wellhead and lease equipment, oil and gas separators, emulsion treaters, boilers, electric generators, flares, newly constructed underground gathering pipelines, flare mitigation systems, and all other equipment located at or on an oil or gas well site or underground gathering pipeline facility. The bill clarifies the power and authority of the Industrial Commission may not be interpreted to supersede or modify requirements related to oil and gas production under Chapter 32.1-06 or 61-28, the federal Clean Air Act, or the federal Clean Water Act.

[\*\*Senate Bill No. 2194\*\*](#) authorizes the Industrial Commission to expend funds from the abandoned oil and gas well plugging and site reclamation fund to defray the expenses of the postproduction royalty oversight program and the pipeline restoration and reclamation oversight program.

**TITLE 39**  
**Motor Vehicles**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 39.

The legislation relating to motor vehicles may be classified in these subject areas--driver's licenses and rules for drivers, judicial process, and miscellaneous.

**DRIVER'S LICENSES AND RULES FOR DRIVERS**

[House Bill No. 1061](#) adds driving on the wrong side of the road in a rotary traffic island as a two-point violation. The bill requires a driver to signal intention of exit before exiting a rotary traffic island. The bill clarifies that if there is more than one vehicle at an intersection at a time, a driver shall yield the right of way to the other vehicle previously stopped at another stop sign at the intersection. The bill exempts window tinting within the top five inches of the windshield from the general restrictions on window tinting and prohibits a windshield from being in a condition that impairs a driver's clear view.

[House Bill No. 1080](#) allows a driver of a vehicle to carry an electronic registration card for the vehicle instead of the physical copy.

[House Bill No. 1141](#) requires the driver of a vehicle to yield and move to a non-adjacent lane to a motor vehicle that is stopped, standing, or parked with flashing hazard warning signals along the interstate system or multilane highway outside of city limits.

[House Bill No. 1280](#) requires the Director of the Department of Transportation to fully reinstate the driving privileges of a drug court graduate and waive any reinstatement fee. The bill clarifies that the Director of the Department of Transportation must issue a temporary restricted license to an offender who is participating in and compliant with the 24/7 sobriety program, prohibits the denial of temporary restricted driving privileges for a driver participating in the 24/7 sobriety program who also has an out-of-state suspension or revocation which cannot be resolved in this state, allows the drug court to order the issuance of a temporary restricted license for an offender undergoing intensive supervision in an approved adult drug court program, and allows the drug court to partially suspend participation in the 24/7 sobriety program. This bill was declared to be an emergency measure and became effective on March 23, 2023.

[House Bill No. 1316](#) provides the definition of a multipassenger bicycle and adds the driver of a multipassenger bicycle as an individual subject to a violation of driving under the influence and open container provisions. The bill exempts the driver of a multipassenger bicycle from point system violations while operating the multipassenger bicycle and prohibits a multipassenger bicycle from operating on a bicycle path or multi-use path unless authorized by a governmental entity having jurisdiction. This bill was declared to be an emergency measure and became effective on April 10, 2023.

[House Bill No. 1318](#) requires a newly naturalized citizen to contact the Department of Transportation within 45 days of naturalization to update the individual's citizenship status and receive a newly issued driver's license or nondriver color photo identification card with citizenship status. The bill requires the Department of Transportation to send a written notice to all newly naturalized citizens before August 1, 2023, requesting the citizen contact the department to update the citizen's citizenship status. The bill also requires the Director of the Department of Transportation to report to the Secretary of State the newly naturalized citizen's status pursuant to Section 16.1-02-09.

[House Bill No. 1346](#) requires an out-of-state snowmobile owner to purchase an out-of-state permit and to display the permit when operating a snowmobile on public lands. The bill allows an out-of-state owner to use an online or printed receipt as proof of registration for 5 business days in place of the official permit. The bill also adjusts the fee schedule for snowmobile operation and adds a \$50 fee for failure to display a permit.

[House Bill No. 1381](#) defines a "transportation network company" and a "transportation network company driver." The bill also designates a transportation network company driver as an independent contractor, rather than an employee of the transportation network company, if certain conditions are met.

[House Bill No. 1417](#) allows the public and an insurance company to see a driver's full record by removing the requirement to keep violations of less than two points hidden.

[House Bill No. 1440](#) requires a delivery network company to maintain a registered agent with the Secretary of State for service of process, provide transparent rates to customers, and refrain from disclosing a customer's personally identifiable information. The bill prohibits a political subdivision from imposing taxes on a delivery

network company or a delivery network driver and designates a delivery network driver as an independent contractor, rather than an employee of the delivery network company, if certain conditions are met.

[House Bill No. 1475](#) would have increased the speed limit on the interstate system from 75 miles per hour to 80 miles per hour. **This bill was vetoed by the Governor on March 29, 2023, and the veto was sustained.**

[House Bill No. 1506](#) exempts a bicycle or a ridden animal from the definition of a vehicle for the purpose of driving under the influence violations. The bill changes the penalty for riding a bicycle or riding an animal under the influence of alcohol or drugs from a driving under the influence violation to a \$200 fine.

[Senate Bill No. 2085](#) creates a new exemption to safety belt requirements for emergency medical services personnel during the provision of direct patient care.

[Senate Bill No. 2111](#) allows a vehicle title to be in electronic form and for the electronic title to be used in motor vehicle sales.

[Senate Bill No. 2189](#) prohibits an individual from driving on a closed road after a closure announcement.

[Senate Bill No. 2362](#) establishes a safety belt violation as a primary offense and repeals the secondary enforcement of safety belts provision.

## JUDICIAL PROCESS

[House Bill No. 1138](#) allows a court to suspend all but 10 days of the mandatory minimum sentence for an individual charged with a third or subsequent offense for driving under the influence under Section 39-08-01, if the individual successfully completes a mental health court program. The bill provides if an individual is convicted of a felony driving under the influence offense under Section 39-08-01 and the individual successfully completes a mental health court program, the individual's felony conviction is downgraded to a misdemeanor. The bill provides if an individual is convicted of a misdemeanor driving under the influence offense under Section 39-08-01 and the individual successfully completes a mental health court program, the court shall dismiss the case and seal the file in accordance with Section 12.1-32-07.2.

[House Bill No. 1277](#) authorizes the drug court to suspend a defendant's electronic alcohol monitoring and sobriety breath testing requirements under the 24/7 sobriety program for the 6 months preceding the defendant's completion of the drug court program if the defendant has substantially complied with the requirements of the program. This bill was declared to be an emergency measure and became effective on April 13, 2023.

## MISCELLANEOUS

[House Bill No. 1011](#) creates the highway patrol federal assets forfeiture fund which consists of money received through federal asset forfeiture sharing programs. The bill provides money in the fund may be used for eligible purchases identified by the federal Department of Justice and federal Department of Treasury.

[House Bill No. 1038](#), as part of a technical corrections bill, corrects a formatting error in Section 39-06-32 pertaining to the authority to suspend motor vehicle operator licenses. The bill also corrects various internal cross references in Sections 39-06-33, 39-06-49, and 39-06.1-11.

[House Bill No. 1060](#) allows various special trip permits for motor carriers to be purchased on a monthly basis, in addition to a yearly basis. The bill also allows annual permits to be purchased for a full 365-day period or purchased on a calendar-year basis.

[House Bill No. 1169](#) allows an individual to receive one set of mobility impaired plates for each mobility impaired individual in the individual's household who is not listed as an owner on the vehicle designated for the exclusive use of transporting the mobility-impaired individual.

[House Bill No. 1181](#) increases the overdimensional vehicle maximum width from 10 feet to 12 feet and allows vehicles of 12 feet to drive at night with proper lighting.

[House Bill No. 1212](#) authorizes a 100 percent disabled veteran and surviving spouse who are eligible for disabled American veteran license plates an option to pay for a specialty or vanity license plate. The bill also expands eligibility for disabled American veteran license plates to include the widow or widower of a veteran who is receiving dependency and indemnity benefits, including when these benefits are determined after the veteran's death.

[House Bill No. 1246](#) prohibits the Department of Transportation from removing or inactivating a traffic-control signal in a city which is within 1,000 feet of a public or non-public school without consulting with the city, except for purposes of repair or maintenance.

[House Bill No. 1336](#) allows volunteer search and rescue personnel to receive volunteer emergency plates.

[House Bill No. 1338](#) replaces "state toxicologist" with "director of the state crime laboratory or the director's designee," to allow the director or the director's designee to develop approved laboratory methods for drawing blood samples. This bill was declared to be an emergency measure and became effective on March 30, 2023.

[Senate Bill No. 2053](#) updates terminology to replace the term "patrolman" with "trooper" or "patrol trooper" throughout Title 39.

[Senate Bill No. 2054](#) adds the power to provide security and protection for visiting dignitaries to the enumerated powers of the Highway Patrol.

[Senate Bill No. 2112](#) requires the Director of the Department of Transportation to search a federal drug and alcohol clearinghouse when issuing, renewing, upgrading, or transferring a commercial driver's license or learner's permit and downgrade or remove driving privileges for drivers found to be in violation or noncompliance with clearinghouse requirements.

[Senate Bill No. 2120](#) allows an overweight vehicle in violation of the weight restrictions on non-interstate highways to be impounded or the driver or owner of the vehicle to be fined, and updates cross-references relating to permissible loads on non-interstate highways. This bill was declared to be an emergency measure and became effective on March 15, 2023.

[Senate Bill No. 2191](#) designates a physical therapist as a health care provider who may sign statements for mobility-impaired parking certificate applications.

[Senate Bill No. 2193](#) allows a motor vehicle dealer licensed under Chapter 39-22 to buy, sell, or exchange a motor-powered recreational vehicle and trailer.

**TITLE 40**  
**Municipal Government**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 40.

The legislation relating to municipal government may be classified in these subject areas--powers of governing bodies, taxation, and miscellaneous.

**POWERS OF GOVERNING BODIES**

[House Bill No. 1120](#) requires each member of the governing body of a municipality be given the opportunity to participate in a voluntary recitation of the Pledge of Allegiance at the start of each regularly scheduled meeting of the governing body.

[House Bill No. 1234](#) prohibits a city from enacting or enforcing an ordinance, resolution, or policy prohibiting or impeding utility service based on fuel source.

[House Bill No. 1273](#) would have prohibited a board of city commissioners or a city council from implementing an ordinance permitting ranked choice and approval voting methods in city elections. **This bill was vetoed by the Governor on April 6, 2023, and the veto was sustained.**

[House Bill No. 1293](#) requires the terms of city council members, city commissioners, and park board commissioners to begin on July 1. The bill also requires the governing body of a city or park district to hold its organizational meeting in July of each even numbered year.

[House Bill No. 1340](#) prohibits a home rule city from regulating firearms and ammunition through planning and zoning ordinances or policies or when defining offenses against private persons and property and public health, safety, morals, and welfare.

[Senate Bill No. 2370](#) allows a city to contract for cooperative purchases through a joint powers agreement with approval from the board of city commissioners or the city council. The bill prohibits cities from using cooperative purchasing for the construction of a public improvement.

[Senate Bill No. 2371](#) prohibits a board of city commissioners or a city council from approving a development agreement of building plan with an individual or government identified as a foreign adversary under 15 CFR 7.4(a) or a person on the Office of Foreign Assets control sanctions list unless the individual or government is a duly registered business that has been in good standing with the Secretary of State for at least 7 years, has been approved by the Committee on Foreign Investment in the United States, and maintains an active national security agreement with the federal government.

**TAXATION**

[House Bill No. 1266](#) allows a city with an expired renaissance zone to apply to renew the expired renaissance zone or apply for the creation of a subsequent renaissance zone. The bill clarifies a renaissance zone is not deemed expired until all subsequently granted extensions for the zone have lapsed. The bill also clarifies a taxpayer eligible for property or income tax incentives for a zone project in a renaissance zone that has expired may to continue to receive the incentives for the original period of eligibility.

[House Bill No. 1495](#) clarifies a "property tax incentive" for purposes of the requirement for cities to notify impacted counties and school districts prior to granting the property tax incentive includes a tax increment finance district used to offset public or private costs for urban renewal. The bill was declared to be an emergency measure and became effective on March 21, 2023.

[Senate Bill No. 2391](#) expands the definition of "rehabilitation" for purposes of qualifying for a property or income tax incentive under the renaissance zone program. The bill clarifies rehabilitation means repair or remodeling at a cost equal to or exceeding--75 percent of the current true and full value for residential property or commercial property for a business or investment purpose, excluding owner occupied single-family residential property, for incentives exceeding 5 taxable years; 50 percent of the current true and full value for residential property or commercial property, excluding owner-occupied single family residential property, for a business or investment purpose, for incentives of 5 taxable years or less; 50 percent of the current true and full value for public utility infrastructure; and 20 percent of the current true and full value for owner-occupied single-family residential property. The bill allows cities to create two renaissance zones and extends the maximum duration of a zone extension from up to 5 years to up to 10 years. The bill allows a parcel to receive a subsequent renaissance zone property tax exemption if at least 30 years have lapsed since the date the

previous renaissance zone project was completed on the parcel. The bill extends the eligibility period for an income tax exception for a zone project from 5 to 8 taxable years after the purchase, lease, or completion of rehabilitation. The bill extends the eligibility period for a property tax exemption from 5 to 8 taxable years after the date of acquisition or completion of rehabilitation. The bill also prohibits a renaissance fund organization from making additional credits available for investment in the organization once the maximum allowance of \$10.5 million in credits have been claimed.

## **MISCELLANEOUS**

[House Bill No. 1038](#) makes technical corrections in Section 40-34-13, relating to the use of money remaining after the payment of bonds, and Section 40-35-02, regarding the definition of the term "undertaking" as it relates to revenue bonds.

[House Bill No. 1192](#) replaces the phrase "electronic voting systems" with "voting systems" in the context of municipal elections.

[Senate Bill No. 2050](#) requires a library to submit the required annual report to its city council or board of county commissioners by July 1, rather than on July 1. The bill requires the report to include the number of all materials on hand, rather than just books and periodicals, to account for the different materials housed in the library and requires the report to contain the number of materials withdrawn from the library, in addition to those added, lost, or loaned out. The bill also repeals a section of law relating to contributions by a political subdivision for the establishment of a library.

[Senate Bill No. 2138](#) allows municipal judges to perform official judicial acts and duties on Sundays.

[Senate Bill No. 2286](#) permits a police officer to maintain the police officer's powers and duties throughout the state while transporting an individual who is under arrest or is detained pursuant to Chapter 25-03.1.

**TITLE 41**  
**Uniform Commercial Code**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 41.

[House Bill No. 1082](#) reflects the adoption of the Uniform Commercial Code amendments (2022), which update the state's Uniform Commercial Code to account for technological developments. The bill implements a new article to the state's Uniform Commercial Code to provide for rules for transactions involving certain new types of digital or intangible assets, referred to as "controllable electronic records." The bill also updates Articles 1, 2, 2A, 3, 4A, 5, 7, 8, and 9 of the state's Uniform Commercial Code to account for certain new types of digital or intangible assets.

[House Bill No. 1393](#) updates a cross reference related to the contractual limitation of a warehouse's liability.

[Senate Bill No. 2392](#) excludes a United States central bank digital currency from the definition of "deposit account" in Article 9 of the state's Uniform Commercial Code.



**TITLE 42**  
**Nuisances**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

There was no 2023 legislation enacted which affected North Dakota Century Code Title 42.

**TITLE 43**  
**Occupations and Professions**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 43.

The legislation relating to occupations and professions may be classified in these subject areas--abstractors; accountants; architects and landscape architects; barbers; community health workers; contractors; counselors; engineers and land surveyors; massage therapists; nurses; physicians, physician assistants, and naturopaths; psychologists; real estate appraisers; real estate brokers; reflexologists; social workers; and miscellaneous.

**Abstractors**

[Senate Bill No. 2320](#) increases the amount of the fees an abstractor is allowed to charge and provides for the adjustment of these fees based on inflation.

**Accountants**

[Senate Bill No. 2061](#) removes outdated language regarding education requirements for a certified public accountant; replaces the "good moral character" licensure requirement with more specific language to disqualify a candidate convicted of a felony or crime involving dishonesty or fraud; changes the qualifications for a licensure candidate the Board of Accountancy may permit to take the examination by requiring a candidate have at least 120 semester hours of college education completed, rather than be anticipated to complete the educational requirements within 6 months of applying to take the exam; allows a retired certified public accountant to use a professional title on official documents as long as the title appears with an indication of "retired" or "inactive" and to provide volunteer, uncompensated services; provides a certified public accountant must be in good standing to convert to inactive status; authorizes the board to investigate complaints against a licensee and pursue disciplinary action as appropriate; and provides an administrative hearing regarding discipline or license denial must be held pursuant to the Administrative Agencies Practices Act.

**Architects and Landscape Architects**

[House Bill No. 1465](#) increases the membership of the State Board of Architecture and Landscape Architecture from three to five members appointed by the Governor which must include three architects, one landscape architect, and one public member. The bill also sets minimum qualifications for both architects and landscape architects to serve on the board and requires the public member of the board to be a resident of the state for at least 5 years before appointment to the board.

**Barbers**

[House Bill No. 1112](#) prohibits an individual exempted from barber regulatory provisions from providing or advertising barber services; increases from \$5 to \$10 dollars the amount the Board of Barber Examiners may allocate from each barber certificate renewal fee toward the barber educational program; and specifies a hearing on revocation, suspension, or nonrenewal of a license must be conducted pursuant to the Administrative Agencies Practices Act.

**Community Health Workers**

[House Bill No. 1028](#) directs the Department of Health and Human Services to implement a method for certifying community health workers and provides an individual may not use the title "community health worker" unless certified by the department.

**Contractors**

[Senate Bill No. 2207](#) prohibits the Secretary of State from charging a contractor license or renewal fee to a nonprofit entity building or rehabilitating a single-family home that will be given or sold below appraised value to a low-income individual.

**Counselors**

[Senate Bill No. 2187](#) provides for adoption of the Counseling Compact to allow counselors authorized by the compact who reside in another state that has joined the compact to practice in this state and revises the supervisory experience requirements for a licensed professional counselor to allow a licensed psychologist to provide supervision.

## **Engineers and Land Surveyors**

[\*\*House Bill No. 1104\*\*](#) provides for an executive director instead of a secretary of the State Board of Registration for Professional Engineers and Land Surveyors; provides a professional engineer examination must be approved by the board to be used for qualification purposes; increases the maximum registration fee for a professional engineer and land surveyor from \$100 to \$150 for 1 year and from \$200 to \$300 for 2 years; allows licensure candidates to take the professional examination without a specific amount of experience; permits a licensure candidate who does not achieve a passing grade on the professional examination to apply for re-examination without waiting a year; provides the code of ethics applies to both individual and commercial practice certificate holders; specifies the Administrative Agencies Practices Act applies in disciplinary actions; and authorizes the board, through court or administrative proceedings, to impose a civil penalty not to exceed \$2,500 for the same acts for which the board may suspend, refuse to renew, or revoke a certificate of registration.

## **Massage Therapists**

[\*\*House Bill No. 1128\*\*](#) clarifies the definition of "massage" includes the use of tools that mimic "human touch" rather than "human hands"; amends the qualifications of a consumer member on the North Dakota Board of Massage Therapy by removing restrictions on the position which prohibited service by a current or past member of any other health care licensing entity, an individual with a fiduciary obligation to a facility rendering health care services, or an individual with a financial interest in the rendering of health care services; removes the good moral character qualification for an applicant for a massage therapy license and adds the requirement that an applicant meet any other requirements set by the board by rule; updates the license display requirement to allow a licensee to display either the original license or the licensee's license renewal card; amends the continuing education requirements to change the limit on how many hours may be completed remotely from 10 hours to no more than 50 percent of the total annual credits; authorizes the board to require a licensee submit to an appropriate examination if the board reasonably believes the licensee has a health condition that may impact the safety of clients; removes reference to any specific credentialing agency to allow an applicant with training and credentials outside of the United States to use any credentialing agency with board approval; amends the list of grounds for denial, revocation, suspension, or probation of a license to add failure to submit to a physical or behavioral health examination; and adds cities and counties to the list of out-of-state licensing jurisdictions for massage therapy licensure.

## **Nurses**

[\*\*Senate Bill No. 2114\*\*](#) directs the North Dakota Board of Nursing to establish an alternative discipline program designed for nurses with substance use disorders, behavioral health conditions, or medical health conditions; directs the board to support nursing education funding assistance; and removes the requirement the board adopt and enforce rules to allow nurses licensed by another state to received short-term clinical education in North Dakota health care facilities.

## **Physicians, Physician Assistants, and Naturopaths**

[\*\*Senate Bill No. 2098\*\*](#) adds medical students and physician assistant students to coverage under the Physician Health Program; requires the Physician Health Program to develop a policy to allow a participant to obtain a second opinion review of recommendations by the program regarding assessment, monitoring, or treatment; removes the requirement for physician, physician assistant, and student licensure applicants to agree to submit to an impairment evaluation; and clarifies when information is disclosable during a Physician Health Program proceeding with a licensee.

[\*\*Senate Bill No. 2115\*\*](#) provides for the North Dakota Board of Medicine to regulate resident physicians; clarifies the board regulates physician assistants; clarifies the allowable and prohibited use of professional titles; increases the board membership by adding a second physician assistant to the board; requires the board to communicate with the Governor's office regarding upcoming board vacancies; clarifies how board members are to be compensated; removes outdated language regarding licensure examinations; clarifies a licensure applicant has 1 year to submit all required documentation; provides the board may apply funds to educational purposes; updates fees for physician license registration, including under the Interstate Medical Licensure Compact; provides for a penalty for failing to file continuing education requirements; creates licensee record retention requirements for medical records; updates language for discipline for habitual use of alcohol or drugs; clarifies any personal information in a suspension hearing is confidential; and updates the law regarding emergency treatment by a resident or nonresident licensee. The bill also amends the law relating to the Board of Medicine investigative panels by expanding the jurisdiction of the panels to include all licensees of the Board; expanding the events a licensee is required to report to the board; and clarifying the information that is confidential in an investigation.

[Senate Bill No. 2148](#) expands the corporate practice of medicine law exception to allow a physician to be employed directly by a nonprofit entity or charitable trust if there are contractual provisions to protect the physician's independent judgment in practicing medicine.

[Senate Bill No. 2150](#) amends the list of grounds for which the North Dakota Board of Medicine may take disciplinary action against a physician by removing as a ground for discipline a reference to the performance of an abortion under a section of law that was repealed. This bill was declared to be an emergency measure and became effective on April 24, 2023.

[Senate Bill No. 2221](#) adds naturopath to the professionals regulated by the North Dakota Board of Medicine and removes naturopaths from the professions regulated by the State Board of Integrative Health Care; increases the North Dakota Board of Medicine membership from 13 members to 15 members, increasing the number of physician assistants from one to two, and adding a naturopath; expands the powers and duties of the North Dakota Board of Medicine relating to the regulation of naturopaths, including directing the board to adopt rules to regulate naturopaths, authorizing the board to establish continuing education requirements for naturopaths, authorizing the board to adopt a code of ethics for naturopaths, directing the board to monitor the number of naturopaths licensed by the board to determine whether to introduce legislation creating an independent board to regulate naturopaths, and authorizing the board to take disciplinary actions against a licensee; removes the "good moral character" clause for licensure of a naturopath; adds a prescriptive endorsement to the scope of practice for naturopaths; provides a criminal penalty for violation of the law regarding the regulation of naturopaths; and clarifies the civil remedy of injunction is available if the law regarding the regulation of naturopaths is violated.

### **Psychologists**

[Senate Bill No. 2205](#) provides for adoption of the Psychology Interjurisdictional Compact to allow psychologists authorized by the compact who reside in another state that has joined the compact to practice in this state and authorizes the North Dakota State Board of Psychologist Examiners to adopt rules and standards to establish a predoctoral supervised psychological internship program.

### **Real Estate Appraisers**

[House Bill No. 1107](#) amends the definition of "uniform standards of professional appraisal practice" to clarify that the North Dakota Real Estate Appraiser Qualifications and Ethics Board shall adopt the national standards of appraisal practice from the Appraisal Foundation; provides for an exemption from appraiser permit requirements for a person employed by the Bank of North Dakota who provides an evaluation of an appraisal for a federally insured depository institution; removes the requirement for an applicant for a permit to provide the board with a list of documents or, upon request of the board, provide copies of appraisal reports or other documents regarding the applicant's experience; revises the permit examination requirements to provide for the national examination required by the Appraisal Foundation Appraisal Qualifications Board; lengthens the permit term from 1 year to 2 years; removes out-of-state apprentices from the list of individuals to whom the board may issue a temporary permit and updates the temporary permit application process; removes the written application requirement from the temporary appraiser permit application process; revises the retention of records requirements to comply with the recordkeeping rule specified in the Uniform Standards of Professional Appraisal Practice; and clarifies the requirement that an individual have a permit to avoid criminal penalties for practicing as an appraiser.

### **Real Estate Brokers**

[House Bill No. 1038](#) as part of a technical corrections bill, corrects an outdated cross-reference to the definition of "real estate broker" under Section 43-23-06.1.

[House Bill No. 1190](#) revises the definition of "real estate broker" to include a person that markets for sale an equitable interest in a contract for the purchase of real property between a property owner and a prospective purchaser and provides a person engaging in residential real estate wholesale buying and selling must be a licensed realtor and shall disclose the practice to the consumer.

### **Reflexologists**

[Senate Bill No. 2065](#) updates the definitions of the terms "reflexologist" and "reflexology"; revises the North Dakota Board of Reflexology member requirements, no longer requiring that a reflexologist member be a member of the North Dakota Reflexology Association; allows board meetings to be held online; updates the record keeping requirements of the secretary-treasurer; clarifies the board may adopt and enforce rules; revises the education requirements, examination and reexamination requirements, residency requirement, and good moral character requirements for licensure; increases the licensure fee from \$75 to \$150 and imposes a late fee of \$50 for licenses renewed after the deadline for renewal; repeals the county license recording

requirement; updates continuing education requirements; updates the grounds for license revocation, including adding fraud or deceit as grounds for license revocation; clarifies an administrative hearing for license denial must be held pursuant to the Administrative Agencies Practices Act; and provides it is a Class B misdemeanor to practice reflexology without a license.

### **Social Workers**

[Senate Bill No. 2345](#) allows the North Dakota Board of Social Work Examiners to suspend the use of an examination for licensure, to create a process to waive examination requirements, and to create alternative requirements in lieu of an examination to determine qualifications and fitness for licensure.

### **Miscellaneous**

[House Bill No. 1165](#) as part of a bill that updates language to reflect the integration of the Department of Human Services and State Department of Health and to align with the current structure and duties of the Department of Health and Human Services, reassigns some of the duties of the Health Council to the Department of Health and Human Services, replaces "executive director" with "commissioner" to update the title of the head of the Department of Health and Human Services, and allows the Commissioner of the Department and the State Health Officer to delegate certain duties to a designee. These revisions affect the laws regulating funeral services, the health care professional student loan repayment program, pharmacists, the dentist loan repayment program, the veterinarian loan repayment program, nursing home administrators, electrologists and electronic hair removal technicians, and environmental health practitioners.

[House Bill No. 1221](#) provides for professional transparency of health care practitioners; requires a health care practitioner's advertisement to identify the type of license held, requires a health care practitioner to conspicuously display and clearly communicate the license held, and requires a health care practitioner to wear photo identification during patient encounters if certain requirements are met; and provides that a violation of these requirements by a health care practitioner is deemed unprofessional conduct subject to disciplinary action.

[Senate Bill No. 2344](#) adds registered nurse to the list of professions eligible for the health care professional student loan repayment program.

**TITLE 44**  
**Offices and Officers**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 44.

The legislation relating to offices and officers may be classified in these subject areas--open records and open meetings and miscellaneous.

**OPEN RECORDS AND OPEN MEETINGS**

[House Bill No. 1262](#) expands the exemption for an image taken by a body camera or similar device from being subject to an open records request under Chapter 44-04 to include footage taken by emergency medical technicians, building inspectors, property assessors, and others, instead of being limited to images taken by law enforcement officers or firefighters, if the image is taken in a private place.

[House Bill No. 1463](#) allows nonprocedural votes relating to the consideration of an amendment by a legislative committee or the Legislative Assembly during a legislative session to be taken as a voice vote rather than a roll call vote. This bill was vetoed by the Governor on April 7, 2023. The veto was overridden.

[House Bill No. 1481](#) provides an image taken by a coroner or medical examiner or their personnel is an exempt record. The bill also provides redacted autopsy images may be used by specified individuals for teaching and training purposes.

[Senate Bill No. 2047](#) excludes any meeting of the judicial branch or a committee or workgroup of the Judicial Branch from the definition of "meeting" in Section 44-04-17.1.

[Senate Bill No. 2232](#) provides for designated officials to investigate a violation of any law if the individual has evidence, knowledge, or notice of the violation, rather than limiting that authority to specific categories of laws. The bill designates as an exempt record descriptions of crime scene images that include a minor or a minor victim and expands the attorney consultation exemption to include statements made by participants during an executive session. The bill requires a public entity that has a website to post notices of its meetings on its website. The bill also grants discretion to the Attorney General to decline to issue an opinion depending on the number of requests previously made by the same individual.

**MISCELLANEOUS**

[House Bill No. 1054](#) requires an individual applying for a commission as a notary public to submit an application on a form prescribed by the Secretary of State. The bill also provides a notary public commission may be renewed up to 60 days before the commission's expiration date.

[House Bill No. 1083](#) provides requirements for a notary public to follow in order to use electronic communications to perform notarial acts for remotely located individuals, including procedures to be followed by both the notary public and the remotely located individual and records to be maintained.

[House Bill No. 1155](#) prohibits the implementation of sanctuary policies, preventing sanctuaries for unlawful citizens anywhere in North Dakota.

[House Bill No. 1235](#) provides the terms of the Agriculture Commissioner, Attorney General, Auditor, Insurance Commissioner, Public Service Commissioners, Secretary of State, Superintendent of Public Instruction, Tax Commissioner, and Treasurer begin on December 1 following their election to office.

[Senate Bill No. 2042](#) eliminates reciprocal preference requirements that required any state entity to research and apply the rate of preference of the home state of an out-of-state vendor when considering bids from an out-of-state vendor.

[Senate Bill No. 2124](#) increases from \$35 to \$45 the daily in-state meal reimbursement amount for officers, employees, representatives, or agents of the state or any of the state's subdivisions, agencies, bureaus, boards, or commissions.ests previously made by the same individual.

**TITLE 45**  
**Partnerships**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

There was no 2023 legislation enacted which affected North Dakota Century Code Title 45.

**TITLE 46**  
**Printing Laws**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 46.

[House Bill No. 1056](#) changes state printing operations by allowing state agencies to do their own printing when cost-effective or advantageous. The bill also repeals Section 46-02-20, which contains outdated state printing restrictions.

[House Bill No. 1197](#), as it relates to the state's or a political subdivision's publication of legal notices in a newspaper, provides the definition of "publish" includes both print and e-edition formats of a newspaper.



**TITLE 47**  
**Property**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 47.

[\*\*House Bill No. 1135\*\*](#) prohibits a foreign government from purchasing, acquiring, or holding any foreign governmental interest in agricultural land in North Dakota. The bill does not prohibit an interest held in agricultural land by a foreign government before July 1, 2023. The bill allows a state-controlled enterprise to acquire agricultural land or maintain an interest in agricultural land, provided the state-controlled enterprise uses the land for agricultural research and development or experimental purposes, and the agricultural land has an area of 160 acres or less. The bill defines "controlling interest," "foreign government," "foreign governmental interest in agricultural land," and "state-controlled enterprise."

[\*\*House Bill No. 1188\*\*](#) creates a new chapter prohibiting the use of unfair service agreements. The bill outlines the procedure for invalidating an alleged unfair service agreement and provides a remedy if a service agreement is determined to be unfair. The bill defines a "service agreement" as a contract under which a person agrees to provide services in connection with the maintenance, purchase, or sale of residential real estate.

[\*\*House Bill No. 1310\*\*](#) allows a condominium owner to install an electric vehicle charging station in an owner's unit or designated parking space at the unit owner's expense, subject to reasonable restrictions. The bill defines "reasonable restrictions" and "electric vehicle charging station." The bill prevents the inclusion of a covenant in a property transfer or bylaw in a condominium association's policies from prohibiting or unreasonably restricting the installation or use of an electric vehicle charging station within an owner's unit or designated parking space. The bill provides an electric vehicle charging station must meet all health and safety standards and requirements imposed by law, rule, or regulation.

[\*\*House Bill No. 1360\*\*](#) tolls the period in which a holder of unclaimed property must retain records, beginning on the date the holder is notified of an examination and ending upon the conclusion of the examination or any related appeal or litigation. The bill clarifies that the holder must retain all relevant records dating back 10 years before the examination's commencement, including the dormancy period, before the date on which the administrator delivers notice of an examination to the holder. The bill increases the statute of limitations for a holder who has filed a report from 5 to 7 years.

[\*\*Senate Bill No. 2206\*\*](#) increases from \$100,000 to \$150,000 the value of a homestead which is exempt from a judgment lien and from execution or forced sale.

[\*\*Senate Bill No. 2243\*\*](#) requires a person that owns or purchases an existing mobile home park to provide each tenant with the name, address, and phone number of the legal entity owning the mobile home park; the phone number of any existing property manager or site agent; and a copy of the lease agreement and any modifications to the lease within 10 days of receiving a written request for the information from the tenant or the tenant's agent. The bill requires a month-to-month tenancy agreement to provide a minimum of 90 days' notice before a rent increase goes into effect. The bill increases the civil penalty for a violation by a mobile home park owner to no less than \$2,000 but not more than \$10,000 or actual damages, plus actual attorney's fees and costs. The bill allows a district court in the county where the mobile home park is located to suspend and reinstate a mobile home park license and requires the assessment of a civil penalty for each day the holder's license is suspended. The bill requires the civil penalty to be equal to half of the total rent listed on the rent roll of the mobile home park, divided by the number of days the license is suspended. The bill allows park tenants to continue to reside at a mobile home park while the license holder's license is suspended, unless prohibited by the Department of Health and Human Services for health or safety reasons. The bill clarifies that a license holder or the license holder's agent may not modify any park rules or tenant rental agreements, increase rent, or terminate a tenant's lease without cause while the license holder's license is suspended or during the pendency of a small claims action against the license holder. The bill provides the district court of the county in which the dispute arose has original jurisdiction over the dispute. The bill provides if a tenant brings a small claims action against the mobile home park licensee, the tenant must continue to pay rent and comply with all rules of the mobile home park in effect at the time the action commenced.

[\*\*Senate Bill No 2263\*\*](#) eliminates references to a "secondary mortgage" and provides a definition for "surplus amount" in laws relating to the treatment of residential real estate mortgage escrow accounts to align state law with the federal Real Estate Settlement Procedures Act. The bill also changes the deadline by which notice must be provided to a borrower regarding a surplus escrow amount from March 1 to 30 days after the end of

the escrow account computation year and requires any surplus amount stated in the notice to be refunded at the time the notice is issued.

**Senate Bill No. 2371** prohibits a foreign adversary government, foreign business entity with its principal office located in a country identified as a foreign adversary, or a foreign business entity in which a foreign adversary owns at least 51 percent of the business or directs the operations and affairs of the business, from purchasing or acquiring title to real property in this state. The bill exempts from the prohibition a duly registered business that has maintained a status of good standing with the Secretary of State for at least 7 years, has been approved by the Committee on Foreign Investment in the United States, and maintains an active security agreement with the federal government. The bill requires a business or entity in violation of the law to divest its interests in real property within 36 months of the law becoming effective. The bill allows a state's attorney to commence a civil action in the county where the majority of the real property is situated if the entity fails to divest itself of all real property within the required period.

**TITLE 48**  
**Public Buildings**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 48.

[House Bill No. 1288](#) requires a governing body to publish a notice of request for qualification to enter a construction management at-risk contract.

[Senate Bill No. 2015](#) would have restricted expenditures made for projects and planning by the Capitol Grounds Planning Commission from the capitol building fund to remodeling expenses only. This bill was declared to be an emergency measure. **This provision of the bill was vetoed by the Governor on May 9, 2023.**

**TITLE 49**  
**Public Utilities**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 49.

[House Bill No. 1063](#) removes the \$50 filing fee required by the Public Service Commission for new tariff filings.

[House Bill No. 1064](#) expands the definition of excavation in relation to the one-call excavation notice system to include dredging.

[House Bill No. 1067](#) creates an exemption for the Public Service Commission to public record requests for information developed or obtained by a regional transmission organization market monitor, the organization of Midwest Independent System Operator states, and the Southwest Power Pool regional state committee.

[House Bill No. 1097](#) authorizes the Industrial Commission to site utility-scale energy storage of five megawatts or more and hydrogen refinement and transmission facilities, requires the commission to provide two notices of a public hearing at a reasonable interval before the public hearing, and allows a utility to adjust the route of an electric transmission line before or during construction. The bill also clarifies when the Industrial Commission can collect fees for an application, a new permit or certificate, or a permit or certificate that is reviewed for transfer to a new company or entity and authorizes the commission to accept application fees over \$100,000. This bill was declared to be an emergency measure and became effective on April 12, 2023.

[House Bill No. 1120](#) requires members of the Public Service Commission be given the opportunity to participate in a voluntary recitation of the Pledge of Allegiance at the beginning of each regularly scheduled meeting.

[House Bill No. 1191](#) removes violations of Chapter 32-25, relating to the conversion of grain subsequently stored in a public warehouse, and violations of Chapter 51-05.1, relating to conducting a sale as an auctioneer or clerk, from the list of violations with a civil penalty limit of \$5,000. The bill becomes effective on January 1, 2024.

[House Bill No. 1315](#) requires an applicant for an energy conversion and transmission facility site to inform the Public Service Commission that the applicant has executed or filed an unexecuted generation interconnection agreement, or comparable transmission services agreement, with the effected regional transmission organization or transmission owner.

[House Bill No. 1353](#) requires the Public Service Commission to limit access to records and portions of meetings that relate to physical security and cybersecurity preparedness.

[Senate Bill No. 2008](#) increases the salary of a Public Service Commissioner from \$117,610 to \$130,000 through June 30, 2024, and to \$135,200 as of July 1, 2025. The bill also increases the administrative fee for siting applicants for each \$1 million of original investment from \$100 to \$200, increases the maximum administrative fee that may be collected from \$25,000 to \$50,000, and imposes the administrative fee on each applicant for a certificate of site compatibility, certificate of corridor compatibility and route permit, and a transfer of a certificate or permit under Chapter 49-22.1. The provisions of the bill increasing administrative fees were declared to be an emergency and became effective on April 24, 2023.

[Senate Bill No. 2009](#) requires an applicant under Chapter 49-22 to make a payment to the Agriculture Commissioner when an applicant elects to provide a payment to mitigate the environmental impact of construction or operation of an energy conversion or transmission facility, requires the Agriculture Commissioner to deposit the payment into the environmental impact mitigation fund, and prevents the section from being interpreted to limit an applicant from conducting mitigation activities.

**TITLE 50**  
**Public Welfare**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 50.

The legislation relating to public welfare may be classified in these subject areas--behavioral health; committees; Department of Health and Human Services (DHHS), human service zones, and regional human service centers; developmental disabilities; early childhood services and foster homes; medical assistance; and miscellaneous.

**Behavioral Health**

[House Bill No. 1050](#) updates statutory references to replace "substance abuse" with "substance use disorder" and allows DHHS to use registered mail, personal delivery, or email to provide required written notice of license suspension or revocation of a license to operate a substance use disorder treatment program.

[House Bill No. 1312](#) extends through June 30, 2027, the power of DHHS to provide resources on mental health awareness and suicide prevention to public and nonpublic schools.

[Senate Bill No. 2077](#) authorizes DHHS to administer, develop, and implement a gambling disorder prevention, awareness, crisis intervention, rehabilitation, and treatment services program, instead of contracting with a qualified treatment service provider to provide these services.

[Senate Bill No. 2086](#) directs DHHS to adopt rules for an evidence-based alcohol and drug education program certification and expands who is eligible to participate in the department's alcohol and drug education program to include individuals over the age of 21 and individuals who have violated the law regarding driving under the influence of intoxicating liquor or any other drug or substance, or regarding possession of marijuana.

**Committees**

[House Bill No. 1418](#) revises the membership of the Brain Injury Advisory Council by increasing the minimum number of voting members from 5 to 8 and the maximum number of voting members from 9 to 13. The voting membership is increased from at least one brain injury survivor to at least two survivors and from at least one family member of a brain injury survivor to at least two family members. The nonvoting membership is increased to include a DHHS appointee representing the adult and aging population. The bill also allows the Governor to appoint an individual representing a brain injury advocacy organization to serve as a nonvoting member.

[House Bill No. 1447](#) establishes the Opioid Settlement Advisory Committee, which is directed to forward to DHHS spending decisions for legislatively appropriated funds for remediation or abatement of the opioid crisis in the state. The bill establishes the opioid settlement fund, directs DHHS to develop a process for receiving and evaluating spending recommendations of the committee, directs each political subdivision that recovers and retains money as a result of opioid litigation to submit an annual report to the department, and directs the department to make an annual report to the Budget Section regarding the status of the opioid settlement fund and spending decisions. The bill allows political subdivisions to choose whether to deposit or retain opioid settlement money, and directs a political subdivision that recovers and retains opioid litigation money to collaborate with a public health unit on the use of the money. This bill was declared to be an emergency measure and became effective on May 1, 2023.

[Senate Bill No. 2034](#) revises the membership of the Children's Cabinet by replacing the Speaker of the House of Representatives or the Speaker's designee and the President Pro Tempore of the Senate or the President Pro Tempore's designee with two members from the House of Representatives and two members from the Senate from opposite numbered districts to serve 2-year terms. The bill also includes the Commissioner of DHHS or the Commissioner's designee among the cabinet's members. The bill allows the Chairman of the Legislative Management to appoint one legislative member to serve as the presiding officer of the cabinet and allows the cabinet to select one of its members to serve as the vice-presiding officer. The bill directs the cabinet to provide an annual report to the Legislative Management and the Governor regarding the activities and findings of the cabinet and provides a payment structure for members of the cabinet who are state employees, are not state employees, or are members of the Legislative Assembly. This bill was declared to be an emergency measure and became effective on April 13, 2023.

[Senate Bill No. 2276](#) establishes the Cross-Disability Advisory Council for the purpose of advising DHHS on the implementation, planning, and design for Medicaid reimbursement waivers for individuals with disabilities and caretakers. The bill provides the Cross-Disability Advisory Council becomes ineffective after July 31, 2025. The bill also directs the department to establish a family caregiver service pilot project for the purpose of developing a Medicaid reimbursement waiver for individuals who provide extraordinary care for a family member with one or

more disabilities and to report periodically to the Legislative Management on the impact, usage, and costs associated with the family caregiver service pilot project. The pilot project is effective beginning April 1, 2024, pursuant to Senate Bill No. 2012, and continues until the Commissioner of DHHS certifies to the Legislative Council that an approximate or equivalent family caregiver services waiver is available through Medicaid and Medicare.

[Senate Bill No. 2335](#) repeals Section 50-06-32, regarding the Autism Spectrum Disorder Task Force.

### **Department of Health and Human Services, Human Service Zones, and Regional Human Service Centers**

[House Bill No. 1046](#) clarifies the definitions of the terms "direct costs" and "indirect costs" of human service zones; updates the requirement that all counties enter a human service zone agreement, including authorizing DHHS to create a human service zone; clarifies the reimbursement process between human service zones, counties, and the department; removes the requirement that human service zone directors be located within the human service zone; directs the department to develop a grievance process within its discipline system for human service zones; amends the list of actions the department may take if a human service zone fails to meet the department's standards, authorizing the department to rescind a human service zone, agreement, or plan; directs the department to calculate payment for indirect costs and provides the annual cost allocation plan must be based on information received from the counties by September 15<sup>th</sup> of each year, and provides counties that fail to submit the required information to the department by September 15<sup>th</sup> may not receive funding for indirect costs from the department during that year; allows a human service zone director to authorize expenditures from the human service finance fund for the reimbursement of a human service zone's indirect costs; and excludes indirect costs payments from the expenditures that must be paid from the human service zone human services fund.

[House Bill No. 1165](#) updates language to reflect the integration of the Department of Human Services and State Department of Health to align with the current structure and duties of DHHS; replaces "executive director" with "commissioner" to update the title of the head of DHHS, and allows the Commissioner or the State Health Officer to delegate certain duties to a designee. The bill also removes references to the State Health Council and reassigns duties of the State Health Council to DHHS.

[Senate Bill No. 2083](#) removes from the duties of regional human service centers the duty to provide services to prevent or remedy child and vulnerable adult abuse, neglect, and exploitation; to aid in the preservation, rehabilitation, and reunification of families; and to provide information regarding guardianships. The bill also authorizes regional human service centers to provide behavioral health collaborative care and consultation services, including psychiatric consultation, with private providers and correctional facility providers. The provisions amending the powers and duties of regional human service centers were declared to be an emergency and became effective March 15, 2023.

### **Developmental Disabilities**

[House Bill No. 1048](#), as it relates to the administration of programs for individuals with developmental disabilities, directs DHHS to establish funding for family member and corporate guardianships.

[Senate Bill No. 2079](#) provides it is the intent of the Legislative Assembly that DHHS maintain, rather than design and implement, a facility staff training system for providers of community-based care on behalf of individuals with developmental disabilities.

### **Early Childhood Services and Foster Homes**

[House Bill No. 1049](#) requires a political subdivision to consider an agency foster home for adults to be a permitted use in a single-family or equivalent least-density residential zone.

[House Bill No. 1091](#) defines a "certified family foster home for children" and provides the term "kinship relative" has the same meaning as an "identified relative." The bill extends the regulations and requirements of foster facilities to certified and approved family foster care facilities; provides a foster care license, certification, or approval is nontransferable and valid only at the physical location noted on the application for licensure, certification, or approval and limits each physical location to one license, certificate, or approval; requires DHHS to make the fire prevention and safety course prepared by the State Fire Marshal and the department publicly available; provides nonfederal funds may be used for maintenance payments to unlicensed relatives or unlicensed kinship relatives for no more than 6 months; and expands the basis for denial or revocation of a license or certification to include an applicant, licensee, or certification holder being involved in a court action in which a child is currently removed from the home due to findings contrary to the child's welfare.

[House Bill No. 1144](#) requires child care providers to complete and provide documentation to DHHS verifying the provider and the provider's staff members have completed annual suspected child abuse or neglect training, and requires the training to qualify for continuing education credits that count toward a child care provider's license renewal.

[House Bill No. 1540](#) provides the child care assistance program sliding scale fee schedule must be adjusted annually based on information from a market study and cost study and provides the sliding fee schedule may not be applied to a family whose income does not exceed 30 percent of the state median income for a family of the same size. The bill also provides the sliding fee schedule established for inclusion within the child care and development state plan may not provide benefits to a family whose income exceeds 75 percent of the state median income for a family of the same size, beginning July 1, 2025.

[Senate Bill No. 2084](#) requires all child care assistance payments be made directly to early childhood providers, rather than allowing providers to elect payment be directed to families. The bill also allows an approved relative to provide care for no more than five children through the age of 12, or three children under the age of 2; and clarifies the law addressing limitations on in-home child care benefits applies to benefits provided to an in-home provider or for a child receiving in-home care.

[Senate Bill No. 2104](#) removes redundant language and adds clarifying language to the law regarding early childhood services; provides children on the premises under the age of 12 must be counted for an in-home, self-declaration, family child care, group child care, child care center, and preschool, for purposes of reporting the number of children receiving early childhood services; provides a provider's own child, foster child, or grandchild over the age of 11 is exempt from this report, but all children on the premises aged at least 5 years through age 11 must be counted for school-age child care; provides a staff member of an early childhood service provider who is responsible for children under the age of 1 shall complete an annual safe sleep training course; replaces the term "operator" with "owner" regarding application for a license to operate an early childhood service program; and removes a reference to an authorized agent of DHHS. The bill also removes certain requirements that must be shown for the department to issue a license for the operation of early childhood services relating to pediatric pulmonary resuscitation and first aid programs; allows the department to mail or email inspection notices and notices of noncompliance with correction orders to the owner and operator of an early childhood service; permits a public or private nonprofit entity or the department to provide early childhood services resources and referrals and revises the technical assistance requirements; exempts from the state's procurement procedure the selection of a recipient, award, or payment under the workforce development program, early childhood inclusion support services program, or best in class program; allows for 20 days, instead of 15, to pay fiscal sanctions, and allows for 15 days, instead of 10, to request an administrative hearing regarding fiscal sanctions; and renames the "Early Childhood Services Inclusion Support Services and Grant Program" to the "Early Childhood Inclusion Support Services Program."

[Senate Bill No. 2182](#) excludes United States Department of Defense-certified child care programs from the definition of early childhood services found in the early childhood services law, which allows a federal program to operate while not on a military installation without state licensure.

### **Medical Assistance**

[House Bill No. 1044](#) eliminates the medical assistance primary care provider case management program, effective January 1, 2024.

[House Bill No. 1047](#) provides health insurance providers' Medicaid reporting requirements to DHHS must include information regarding the duration of coverage; provides for a 60-day deadline for providing requested records to the department; requires insurers to accept an authorization made by Medicaid as if the authorization was made by the insurer; and provides an insurer shall agree not to deny a request for reimbursement from the department for failure to obtain a prior authorization for the item or service.

[House Bill No. 1434](#) clarifies the scope of information that can be requested through investigative demands and administrative subpoenas for Medicaid fraud proceedings, and allows the Attorney General to issue an investigative demand or administrative subpoena for a person to produce documentary material for inspection and copying, including exempt and confidential records. If a person fails to produce evidence under an investigative demand or administrative subpoena, the Attorney General may file a petition in the district court which orders the person to produce evidence under the demand or subpoena. The bill also clarifies that confidentiality of testimony taken or materials produced is waived if the person under investigation discloses the information to other law enforcement agencies or discloses the information to non-law enforcement investigative partners with which the Attorney General deems necessary to collaborate to complete the investigation.

[House Bill No. 1435](#) requires a person that receives payment or reimbursement from Medicaid to keep a record of the service or care and establishes the criminal penalties for failure to keep the records. The bill establishes an affirmative defense to account for failure to keep records due to a natural disaster or the actions of another.

[House Bill No. 1530](#) provides for medical assistance coverage of family adaptive behavioral treatment, dental screening and assessment, dental case management, and asynchronous teledentistry.

[Senate Bill No. 2030](#) requires DHHS to participate in medical assistance innovative rebate programs and other program options, including value-based purchasing programs, that are feasible, reasonable, and cost-effective for the state.

[Senate Bill No. 2156](#) clarifies that one-half or more of nonvacant voting board members of the Drug Use Review Board constitutes a quorum of the board, provides an exception to state residency requirements for a board member or manufacturer appointee who practices in the state, and allows for board meetings to be held remotely. The bill also amends the medical assistance prior authorization program by directing DHHS to work with the medical assistance recipient's health care provider to assure treatment can be found for diagnoses with no compendia-supported medications, decreasing from 21 years of age to 18 years of age the individuals covered under the prior authorization program as an adult, and revising the list of drugs that may not be subject to prior authorization for minors and for adults.

[Senate Bill No. 2265](#) requires DHHS to implement a dual special needs plan for Medicare and Medicaid dual-eligible Medicaid recipients by January 1, 2025, and establish standards for care coordination services the dual special needs plan must provide to recipients.

### **Miscellaneous**

[House Bill No. 1051](#) amends the duties of DHHS to remove probation and parole services. The bill also provides in the event of a disruption of operations, the department may provide meals at fair value or without a charge to employees of the State Hospital, Life Skills and Transition Center, and the 24-hour staffed residential units of the regional human service centers.

[House Bill No. 1322](#) revises the nursing home rate adjustment and reconsideration procedures by removing the requirement to include in subsequent cost reports any adjustments that result in a cumulative change of more than \$1 per day.

[House Bill No. 1480](#) creates the pay for success fund and provides money in the fund is appropriated to DHHS on a continuing basis to establish and maintain a pay for success program to award performance-based grants, contracts, or other agreements for initiatives to improve outcomes for at-risk children and increase participation in the workforce by individuals who qualify for government assistance. The bill provides the provisions that must be included in the program; requires an evaluation of the program and the delivery of an annual report to the Legislative Management; directs the State Treasurer to invest money in the fund in an interest bearing account; and assigns administration of the fund to the Commissioner of DHHS. The program becomes effective January 1, 2024.

[Senate Bill No. 2012](#), as part of the bill that provides the appropriation to DHHS, provides a human service zone board must include at least one member of the Legislative Assembly; amends the law relating to substance use disorder treatment vouchers to remove the exclusion of an applicant that is an institution for mental disease for purpose of residential beds added after July 1, 2020; creates the North Dakota Legislative Health Care Task Force to request, obtain, review, and analyze information relating to North Dakota health care and provide an annual report to the Legislative Management; removes the July 1, 2025, sunset for the best in class 4-year old program; revises the law regarding recovery from the estate of a medical assistance recipient, regarding the foundation required for the admission of evidence and providing there is a rebuttable presumption that the amount of medical assistance on the claim was incurred and paid on behalf of the recipient of medical assistance and is an allowable claim; expands the coverage of the Medicaid waiver for in-home services to children with extraordinary medical needs to cover children with autism spectrum disorder up to age 18; expands what is considered an open record under the Medicaid Expansion program to include the reimbursement rate information of a managed care organization which is received or held by the department; revises the formula for the calculation of basic care payment rates; expands eligibility for the children's health insurance program from a modified adjusted gross income eligibility limit of 175 percent of the poverty line to 210 percent of the poverty line; and repeals the law that provides for the autism spectrum disorder voucher program pilot project.

[Senate Bill No. 2051](#) expands the class of individuals for whom DHHS may conduct a criminal record check to include job applicants and current employees of the department and human service zones as part of a contingent offer of employment, those who have access to the department's information received from the Social Security



Administration, volunteers or students for field placement, operators and employees of a psychiatric residential treatment facility for children, providers and employees of a shelter care facility, the provider of a certified family foster home for children, and a board member of a children's advocacy center. The bill decreases the duration for which a criminal history record check is valid from 10 years to 5 years. The bill removes a multidisciplinary team member of a children's advocacy center from the criminal history record requirement. The bill also requires two sets of fingerprints be secured from individuals employed by the shelter care program for purposes of running criminal history record checks.

[Senate Bill No. 2081](#) repeals the law that provides for regulation and licensure of maternity homes and removes references to maternity hospitals and homes in the law providing for the powers and duties of DHHS.

[Senate Bill No. 2103](#) amends the laws relating to child abuse and neglect to provide for alternative response assessments of children up to 12 months of age, rather than 28 days of age. The bill also updates defined terms, including creating a definition of the term "child abuse information index" allowing for a categorized registry; adds schools to the list of facilities required to disclose abuse and neglect information to DHHS; provides the circumstances under which information may be entered in the child abuse information index; provides the length of time a report remains on the index; and allows for toxicology testing for alcohol misuse.

[Senate Bill No. 2129](#) directs DHHS to establish and maintain an alternatives-to-abortion program that provides funding to nongovernmental organizations promoting childbirth instead of abortion. Funds received under the program may not be used for religious worship, instruction, or proselytization.

[Senate Bill No. 2181](#) broadens temporary assistance for needy families (TANF) program eligibility to allow all pregnant women, rather than women in the third trimester of pregnancy only, to qualify for assistance. The bill removes the provision prohibiting an increase in the TANF assistance amount due to an increase in household size resulting from a pregnancy; provides an individual receiving TANF who previously has had income disregarded as an incentive allowance for 12 months may be eligible for that employment allowance for another 12 months, provided that the individual has not received TANF assistance for 12 months or more; and amends the eligibility criteria for Medicaid to include all eligible pregnant women lawfully present in the state. The bill also extends pregnancy care covered by Medicaid to include 12 months of postpartum care and changes the income threshold for a pregnant woman to qualify for medical assistance coverage from below 162 percent of the federal poverty level to below 175 percent of the federal poverty level.

# TITLE 51

## Sales and Exchanges

### Summary of Bills Enacted by the 2023 Legislative Assembly

This memorandum summarizes legislation affecting North Dakota Century Code Title 51.

[House Bill No. 1191](#) replaces the requirement for an auctioneer or clerk to be licensed by the Public Service Commission with a requirement that an auctioneer or clerk register with the Secretary of State and repeals related licensing provisions. The bill removes the exemption from bonding requirements for a federally insured financial institution to clerk a sale as a result of the repeal of bonding requirements for all auctioneers and clerks under Section 51-05.1-01.1. The bill also removes certain responsibilities of auctioneers and clerks, including the requirement to disclose the amount of the bond the auctioneer or clerk has on file with the Public Service Commission and the obligation to make trust accounts and other records available for inspection by the Public Service Commission. The bill becomes effective on January 1, 2024.

[House Bill No. 1228](#) expands the scope of automatic renewal agreement statutes to include service agreements for contracts entered after July 31, 2023, and subjects the service agreements to the same requirements and remedies as automatic renewal agreements for sales of merchandise.

[House Bill No. 1274](#) amends the tobacco product master settlement agreement qualifying statute and complementary statute to reflect updated language from the 2018 nonparticipating manufacturers agreements, including provisions regarding the definition of "units sold" to include cigarettes subject to state excise tax regardless of whether a tax was collected, deposit of escrow funds from nonparticipating manufacturers, assignment of escrow funds, sell-through periods after removal of a tobacco product manufacturer or brand family from the Attorney General's tobacco manufacturer directory, regulation of tobacco product manufacturers and distributors, and the lawful sale of cigarettes. The provisions of the bill relating to the definition of "units sold" and the burden of establishing cigarettes are exempt from state excise tax for purpose of determining units sold were declared to be an emergency and became effective on March 16, 2023.

[House Bill No. 1393](#) updates a reference to the definition of public warehouseman as a result of the statutes related to public warehousemen being relocated from Title 60 to Title 4.1.

[House Bill No. 1474](#) updates a cross reference in the definition of "scrap metal dealer".

[Senate Bill No. 2299](#) requires a scrap metal dealer to obtain a sales and use tax permit from the Tax Commissioner and register with the Attorney General as a scrap metal dealer. A scrap metal dealer is required to be registered to purchase, trade for, or pledge to buy a detached used catalytic converter. Subject to certain exemptions, the bill requires a scrap metal dealer to maintain business records related to the receipt of scrap metals worth over \$50 and prohibits cash purchases or transactions over \$100 for detached used catalytic converters. The bill requires all records involving detached catalytic converters be available for inspection by law enforcement upon request. The bill updates penalties related to scrap metal and catalytic converters, including penalties for failure to comply with recordkeeping, willfully buying, receiving, possessing, or concealing stolen scrap metal that includes a nonexempt detached used catalytic converter, and failure to comply with certain registration requirements for scrap metal dealers. The bill establishes varying degrees of penalties for theft of a catalytic converter which increase in severity based on the replacement value of the catalytic converter.

**TITLE 52**  
**Social Security**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

There was no 2023 legislation enacted which affected North Dakota Century Code Title 52.

**TITLE 53**  
**Sports and Amusements**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 53.

[House Bill No. 1115](#) provides only non-aggregated, identifiable lottery sales data is confidential, not aggregated sales information.

[House Bill No. 1142](#) expands eligible uses for charitable gaming net proceeds to include the administrative and program management expenses of a statewide veterans' organization. The bill was declared to be an emergency measure and become effective on April 12, 2023.

[Senate Bill No. 2003](#) increases from \$200,000 to \$250,000 the mandatory quarterly transfer to the State Treasurer of net proceeds from the lottery operating fund for deposit in the Attorney General multijurisdictional drug task force grant fund, beginning July 1, 2023.

[Senate Bill No. 2126](#) authorizes an organization permitted to conduct raffles to sell the squares on the raffle board at a site 30 days before the drawing and requires the squares to be sold for the same price. The bill also provides an exemption from gaming stamp requirements to an organization hosting a same-day raffle.

[Senate Bill No. 2154](#) provides an exemption to the prohibition on having more than one permitted or licensed organization conduct gaming at a single site for a sports pool conducted under a local permit for a special occasion.

[Senate Bill No. 2186](#) adds fraternal organizations as an organization that may use charitable gaming net proceeds for costs related to real property.

[Senate Bill No. 2281](#) creates the charitable gaming technology fund and requires \$25 of each eligible organization's licensure fee, \$1,500 of each electronic pull-tab manufacturer's licensure fee, \$500 of each paper pull tab manufacturer's licensure fee, \$500 of each electronic raffle manufacturer's licensure fee, and \$500 of each distributor's licensure fee be deposited into the fund.

[Senate Bill No. 2304](#) defines "alcoholic beverage establishment;" provides additional guidance related to site authorization approval by a governing body; limits the number of sites at which a licensed organization may conduct gaming; provides electronic pull tabs must be conducted in a designated area restricted to patrons 21 years of age or older; limits the installation of electronic pull tab devices to 10 devices per authorized site; provides a grandfather clause for organizations conducting gaming at more than 15 sites before January 1, 2023, and organizations conducting gaming at an authorized site regardless of whether the site is an "alcoholic beverage establishment;" authorizes monetary fines for violations by third-party businesses; and increases the rent for electronic pull tab devices. The bill was declared to be an emergency measure and became effective on May 1, 2023.

[Senate Bill No. 2336](#) permits the use of charitable gaming net proceeds for designated office or storage space for gaming-related administration.

**TITLE 54**  
**State Government**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 54.

**LEGISLATIVE ASSEMBLY AND LEGISLATIVE MANAGEMENT**

[House Bill No. 1001](#), the appropriation bill for the legislative branch, increases the daily compensation for members of the Legislative Assembly effective July 1, 2023, from \$193 to \$205 during any legislative session; increases the monthly compensation during the biennium for members of the Legislative Assembly from \$537 to \$569; increases the additional monthly compensation during the biennium for Majority and Minority Leaders and the Chairman of the Legislative Management from \$385 to \$408; and increases daily compensation for attendance at meetings of the Legislative Management from \$193 to \$205. Effective July 1, 2024, the bill increases the daily compensation for members of the Legislative Assembly from \$205 to \$213 during any legislative session; increases the monthly compensation during the biennium for members of the Legislative Assembly from \$569 to \$592; increases the additional monthly compensation during the biennium for the Majority and Minority Leaders and the Chairman of the Legislative Management from \$408 to \$424; and increases the daily compensation for attendance at meetings of the Legislative Management from \$205 to \$213.

[House Bill No. 1168](#) directs the Legislative Management to include a review of the 21<sup>st</sup> century manufacturing and animal agricultural workforce incentive when reviewing economic development tax incentives.

[House Bill No. 1227](#) requires the Legacy and Budget Stabilization Fund Advisory Board to review any legislative, initiated, or referred measures for asset allocation and investment policy impacting the legacy fund. The bill requires the board to request the Retirement and Investment Office arrange for the preparation of a cost-benefit analysis for any measure deemed to impact the legacy fund, which must be appended to the measure before the bill may be referred to a committee of the Legislative Assembly. The bill also requires the Legislative Management to adopt a procedure for identifying measures and proposed measures affecting the legacy fund.

[House Bill No. 1313](#) requires the Majority Leader of one house of the Legislative Assembly, or the Majority Leader's designee, to be the Chairman of the Legislative Management and requires the Majority Leader of the opposite house, or the Majority Leader's designee, to be the Vice Chairman of the Legislative Management. The bill limits the Chairman to serving a 2-year term and requires the Chairmanship and Vice Chairmanship to alternate between houses every 2 years. This bill was declared to be an emergency measure and became effective on May 9, 2023.

[House Bill No. 1455](#) directs the Legislative Management to include a review of the sales and use tax exemption for raw materials, single-use product contact systems, and reagents for biologic manufacturing when reviewing economic development tax incentives.

[House Bill No. 1485](#) requires the Legislative Assembly adopt conflict of interest rules and if the rules adopted are at least as restrictive as the conflict of interest rules adopted by the Ethics Commission, the disclosure process portion of the conflict of interest rules adopted by the Ethics Commission do not apply to members of the Legislative Assembly. This bill was declared to be an emergency measure and became effective on April 10, 2023.

[House Bill No. 1511](#) directs the Legislative Management to review the sales and use tax exemptions for materials used to construct or expand a coal processing facility that utilizes coal as a feedstock when reviewing economic development tax incentives.

[House Bill No. 1539](#) requires the Employee Benefits Programs Committee meet only during the interim and authorizes the Chairman and Vice Chairman to determine if a measure introduced during a legislative session financially impacts the retirement or health care programs of state employees. The bill also requires the Chairman and Vice Chairman to request an actuarial report from the program affected and provide the report to the standing committee to which the measure is referred.

[Senate Bill No. 2040](#) repeals the Worker's Compensation Review Committee.

[Senate Bill No. 2289](#) requires the Energy Development and Transmission Committee to develop a comprehensive statewide energy policy to support the long-term development of the energy opportunities available in the state.

## STATE EMPLOYEES AND OFFICERS

[House Bill No. 1021](#) further amends House Bill No. 1528 to remove the requirement that agencies maintain data contained in personal file storage for agency heads, state officers appointed by the Governor, and elected executive branch officials.

[House Bill No. 1038](#), as part of a technical corrections bill, updates a cross reference relating to a city or township that relinquishes its authority to administer and enforce the state building code.

[House Bill No. 1085](#) provides certain executive and administrative officers and departments the option to print biennial reports or post the contents of the biennial reports on the agency website.

[House Bill No. 1172](#) restricts the Governor or any other member or employee of the executive branch from altering the language of the Pledge of Allegiance.

[House Bill No. 1448](#) removes the county superintendent of schools from the list of individuals authorized to appraise lands conveyed to the United States.

[House Bill No. 1528](#) amends the definition of "record" to include email or communication, requires the state records administrator to develop a training program for agencies regarding the management of state records, requires state agencies to store data from email accounts of agency heads, state officers appointed by the Governor, and elected executive branch officials for at least 1 year, and requires state agencies to adopt policies for the review and retention of records of state employees, agency heads, and public officials and the assumption of employee account ownership upon employee departure. This bill was declared to be an emergency measure and became effective on July 1, 2023.

[Senate Bill No. 2054](#) gives the Superintendent of the Highway Patrol control over electronic card access to exterior doors of the State Capitol, provides keys to interior doors of the State Capitol must be controlled by individual agency heads, authorizes the Legislative Council to issue electronic cards for interior doors controlled by the legislative branch, and authorizes the Highway Patrol to lock down or close the State Capitol during times of emergency.

[Senate Bill No. 2198](#) requires a state agency or entity employer to grant an employee's request for family leave of absence to care for a child, spouse, or parent who is a covered service member or veteran with a serious injury or illness for up to a combined 26 workweeks over a period of 12 months.

## OFFICE OF MANAGEMENT AND BUDGET

[House Bill No. 1288](#) requires leases of additional space by state agencies, departments, offices, boards, and institutions to include a list of all previous owners and partial owners of the leased property who had at least a 10 percent interest in the property in the lease and requires a property management business that enters a contract for services with a state entity to include a list of all previous owners and partial owners of the business who had at least a 10 percent interest in the business in the contract.

[House Bill No. 1368](#) prohibits the state from adopting investment policies that boycott Israel and requires the Office of Management and Budget (OMB) to include a provision prohibiting a party from boycotting Israel in a state purchasing contract with a value of \$100,000 or greater or with a company having 10 or more full-time employees.

[House Bill No. 1429](#) requires proxy votes on behalf of state funds or the funds of political subdivisions which receive investment management services from the state to demonstrate a social investment would provide an equivalent or superior rate of return compared to a similar investment that is not a social investment. The bill also prohibits a state entity from adopting a practice of proxy voting unless the State Investment Board or any other state entity investing public funds can demonstrate a social investment would provide an equivalent or superior rate of return compared to a similar investment that is not a social investment and restricts agencies from creating and renewing purchasing contracts in perpetuity without limitations.

[Senate Bill No. 2015](#) removes probationary employees from the types of employees not eligible to participate in the leave sharing program, authorizes the Director of OMB to charge executive branch agencies for the use of office space and other services rendered, and requires the Director of OMB to create a facility management operating fund to be used for the salary and operating expenses of the division of facility management. The bill increases the membership of the Retirement Board from 9 to 11 members, four of whom must be members of the Legislative Assembly, two appointed by the Majority Leader of the House of Representatives and two appointed by the Majority Leader of the Senate, each to serve a 2-year term. The bill requires the Clean Sustainable Energy Authority to develop a fertilizer development incentive program. The bill further amends House Bill No. 1040 to close the Public Employees Retirement System (PERS) defined benefit system to new

hires as of January 1, 2024, if the new defined contribution plan is open, further amends House Bill No. 1309 to clarify peace officers employed by the state are required to contribute an amount determined by the PERS Board, and further amends House Bill No. 1183 by revising the retirement multiplier formula for peace officers employed by the Bureau of Criminal Investigation (BCI). The provisions relating to the membership of the Retirement Board were declared to be an emergency and became effective on May 10, 2023.

[Senate Bill No. 2042](#) authorizes the Director of OMB to determine whether a different procurement process is in the best interest of the state; expands the scope of commodities and services exempt from state procurement requirements; expands the circumstances under which a limited competitive, noncompetitive, or negotiated purchase is permitted; requires preference be given to a North Dakota bidder when two or more bids or proposals contain identical pricing or receive identical evaluation scores; and requires a business to be registered with the Secretary of State before a contract may be awarded and throughout the duration of the contract period.

[Senate Bill No. 2052](#) excludes the superintendent of the Life Skills and Transition Center and the superintendent of North Dakota Vision Services - School for the Blind from the exemption to classified service provided to other administrative heads of departments in the state.

### **ATTORNEY GENERAL**

[House Bill No. 1280](#) authorizes a district court to suspend an ordered period of participation in the 24/7 sobriety program for an offender participating in an approved drug court program through the issuance of a certificate of waiver and requires the Department of Transportation to treat the waiver as though the offender was participating in the 24/7 sobriety program.

[Senate Bill No. 2208](#) requires the Attorney General to provide a written response to a member of the Legislative Assembly who requests an opinion unless the Attorney General declines to issue an opinion because the request involves a factual determination, the constitutionality of a statute, the internal operation or management of the judicial branch, a pending court case, private legal advice, or a criminal offense. The bill requires the Attorney General to provide written notice within 60 days of the request if the Attorney General declines to issue an opinion.

### **STATE AUDITOR**

[House Bill No. 1508](#) requires the State Auditor to provide quarterly reports to the Legislative Audit and Fiscal Review Committee regarding communication processes with audited entities, billing practices and procedures, information on audits completed, and audit schedules.

[Senate Bill No. 2004](#), the appropriation for the State Auditor, removes the Department of Financial Institutions from the agencies the State Auditor is required to audit. The bill requires the State Banking Board to provide for an audit of the Department of Financial Institutions by a certified public account or the State Auditor. The bill also requires the State Auditor report to the Legislative Audit and Fiscal Review Committee regarding final report distribution policies and final audit reports and restricts the State Auditor from charging audit fees to an institution under the control of the State Board of Higher Education.

[Senate Bill No. 2180](#) requires the State Auditor to audit each state agency other than the North Dakota Lottery once every 2 to 4 years, rather than once every 2 years; increases the maximum fee the State Auditor may charge a political subdivision or occupational or professional board for reviewing an annual report from \$86 per hour to \$90 per hour; allows the State Auditor to require an annual report in lieu of conducting an audit every 2 years for political subdivisions with less than \$2 million in annual receipts, rather than the former limit of \$750,000 in annual receipts; requires all independent certified public accountants that audit a state agency to register with the State Auditor; and changes the Governor's ability to order an audit of a political subdivision to an ability to request an audit.

[Senate Bill No. 2259](#) requires the charge for an audit of an agriculture commodity group to be \$6,000 for an annual financial statement audit or \$4,000 for a 2-year, single-page financial statement audit and authorizes an increase of 5 percent on the amount charged on July 1 of every odd-numbered year beginning in 2025.

### **EMERGENCY COMMISSION**

[House Bill No. 1070](#) updates the cross-reference relating to the acceptance and disbursement of federal funds to reflect the creation of the hazard mitigation revolving loan fund administered by the Department of Emergency Services.

[Senate Bill No. 2029](#) provides a request to expend federal funds received by a state agency and passed through to any other state agency requires approval from the Emergency Commission, requires any federal

funds made available to the state, which are not required to be spent before the next regular legislative session, be deposited into a separate fund until the Legislative Assembly appropriates the funds, and requires the Director of OMB to notify the Legislative Assembly if the cumulative amount of requests to expend federal funds submitted to the Emergency Commission exceed \$50 million. The bill also increases the cumulative amount of special funds the Budget Section may approve for acceptance and disbursement each biennium from \$5 million to \$20 million and requires the Director of OMB to notify the Legislative Assembly if the cumulative amount of requests to expend special funds and funds from other sources submitted to the Emergency Commission exceed \$20 million. This bill was declared to be an emergency measure and became effective on April 26, 2023.

## **DEPARTMENT OF CORRECTIONS AND REHABILITATION**

[House Bill No. 1066](#) authorizes the Director of the Department of Corrections and Rehabilitation to permit a nonmember of the Department of Corrections and Rehabilitation to observe work duties and handle firearms under the supervision of a member of the Department of Corrections and Rehabilitation during job shadowing activities.

[House Bill No. 1160](#) authorizes the Director of the Department of Corrections and Rehabilitation to employ personnel and to establish policies and procedures to supervise a minor who is an adjudicated delinquent and ordered to serve supervised probation under the Department of Corrections and Rehabilitation. This bill was declared to be an emergency measure and became effective on April 13, 2023.

## **DEPARTMENT OF COMMERCE**

[House Bill No. 1018](#), the appropriation bill for the Department of Commerce, expands the pool of eligible recipients of workforce enhancement grants to include workforce training providers and businesses; removes the requirement for the Department of Commerce to cooperate with the University of North Dakota, the North Dakota Aeronautics Commission, the Adjutant General, and other private parties appointed by the Governor in administering an uncrewed aircraft systems test site; replaces references to the term "unmanned" with "uncrewed;" and authorizes the Commissioner of the Department of Commerce to determine a fee structure for the quarterly payments to the State Treasurer required from an entity receiving funding for a beyond visual line of sight uncrewed aircraft system. The bill also removes documented job placement rates at each eligible tribally controlled community college as a criteria for awarding workforce development grants and authorizes colleges receiving workforce development grants to utilize the grants to develop or enhance career and technical education programs.

[House Bill No. 1214](#) repeals Section 54-34.3-13 relating to the rural growth incentive program administered by the Department of Commerce.

[House Bill No. 1215](#) repeals Chapter 54-60.1 relating to business incentive accountability laws and removes cross-references exempting the clean sustainable energy program and North Dakota Pipeline Authority from Chapter 54-06.1.

[Senate Bill No. 2142](#) creates the Office of Legal Immigration within the Department of Commerce. The bill requires the Office of Legal Immigration to implement a statewide strategy to help businesses recruit and retain foreign labor and requires the Office of Legal Immigration to develop a pilot program to support businesses pursuing or employing legal immigrants along with supporting communities creating immigration integration plans and activities.

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

[House Bill No. 1004](#), the appropriation bill for the Public Health Division of the Department of Health and Human Services, requires 80 percent of the funds received by the state in *State of North Dakota ex rel. Drew Wrigley v. JUUL Labs, Inc.*, be deposited in the community health trust fund.

[House Bill No. 1165](#) replaces "executive director" with "commissioner" to update the title of the head of the Department of Health and Human Services; authorizes the Commissioner to delegate duties to a designee in the laws relating to a political subdivision's request to be exempted from the state merit system, the review of rules pertaining to state and human service zone records, and membership on the health information technology advisory committee and statewide longitudinal data system committee; and removes the Health Council from the list of boards and commissions appointed by the Governor.

## **DEPARTMENT OF TRANSPORTATION AND HIGHWAY PATROL**

[House Bill No. 1012](#) establishes the legacy earnings highway distribution fund and the legacy earnings township highway aid fund. The bill provides money in the legacy earnings highway distribution fund must be



allocated 60 percent to the Department of Transportation for deposit in the state highway fund, 10 percent to the legacy earnings township highway aid fund, 1.5 percent to the public transportation fund, and 28.5 percent to cities and counties for roadway purposes. The bill provides money deposited in the legacy earnings township highway aid fund must be used for road and bridge projects in non oil producing counties and organized and unorganized townships.

[Senate Bill No. 2053](#) updates terminology to change references to "highway patrolman's retirement system" to "highway patrol troopers' retirement system."

### **NORTH DAKOTA COUNCIL ON THE ARTS**

[Senate Bill No. 2338](#) creates the Poet Laureate Nominating Board to which individuals may submit an application for the position of Poet Laureate. The bill provides the board shall select one of the three finalists by June 1 of each odd-numbered year to serve a 2-year term as the Poet Laureate. The bill directs the North Dakota Council on the Arts to provide up to \$5,000 per year to the Poet Laureate through the online grant system for participation in public events.

### **ETHICS COMMISSION**

[Senate Bill No. 2048](#) amends the definition of "complainant" for purposes of who may submit a complaint to the Ethics Commission to include an individual who is a North Dakota resident, subject to licensing by a state agency or other public official subject to the jurisdiction of the Ethics Commission, or is a party to a quasi-judicial proceeding before a state agency or other public official subject to the jurisdiction of the Ethics Commission. The bill also increases the period of time the Ethics Commission has to notify an accused individual from within 20 days of a complaint to within 30 days of a complaint and requires the Ethics Commission to notify an accused individual if the complaint is summarily dismissed.

### **INDUSTRIAL COMMISSION**

[House Bill No. 1014](#), the appropriation bill for the Industrial Commission, expands the eligible uses of the housing incentive fund to include the provision of assistance for new construction, rehabilitation, preservation, or acquisition of single family housing projects in a developing community or a community land trust project and authorizes for-profit developers of residential housing to be eligible for assistance. The bill removes North Dakota as a purchaser of last resort for interest in or the right to capacity in any pipeline system, requires the Pipeline Authority to sell, transfer, release, or dispose of the capacity positions at intervals no more frequent than monthly at or above market rate, authorizes the Pipeline Authority to borrow up to \$60 million through a line of credit from the Bank of North Dakota, and increases from \$250 million to \$390 million the line of credit extended to the Industrial Commission from the Bank to support loans or loan guarantees issued from the clean sustainable energy fund.

[House Bill No. 1062](#) replaces the title of "secretary" within the Industrial Commission with "executive director," removes the requirement that all loans by the Industrial Commission on behalf of the Housing Finance Agency with a loan-to-value ratio exceeding 80 percent which are not guaranteed by a federal agency be insured by an approved mortgage insurance company, and replaces a reference to the "director of financial programs" with "other staff as designated by the executive director" as a result of the elimination of the position. The bill also removes the requirement that the Industrial Commission contract with the Department of Commerce for administration of the Industrial Commission's renewable energy program.

[House Bill No. 1120](#) requires members of the Emergency Commission and Industrial Commission be given the opportunity to participate in a voluntary recitation of the Pledge of Allegiance at the beginning of each regularly scheduled meeting.

[Senate Bill No. 2089](#) authorizes the Industrial Commission to create the clean natural gas capture and emissions reduction program to incentivize natural gas capture and utilization systems.

### **INFORMATION TECHNOLOGY DEPARTMENT**

[House Bill No. 1159](#) repeals the State Information Technology Advisory Committee and a related section of law requiring the prioritization of proposed major information technology projects. The bill requires the Chief Information Officer to report proposed major projects for the next biennium to the Information Technology Committee before October 1 of each even-numbered year; removes the requirement for the State Information Technology Advisory Committee to review the information technology policies, standards, and guidelines developed by OMB; and directs state agencies to notify the Information Technology Department, rather than the State Information Technology Advisory Committee, of information technology projects.

[House Bill No. 1327](#) removes the Veterans' Home from the list of agencies and institutions required to use services from the Information Technology Department.

[Senate Bill No. 2073](#) authorizes the Information Technology Department to provide information technology and cybersecurity services to education institutions under the control of a tribal government of this state.

### **OFFICE OF ADMINISTRATIVE HEARINGS**

[Senate Bill No. 2039](#) removes the requirement that Workforce Safety and Insurance report statistical information regarding results under case processing standards and policies to the Legislative Management.

### **PUBLIC EMPLOYEES RETIREMENT SYSTEM**

[House Bill No. 1040](#) closes the PERS defined benefit retirement plan to new state employees effective January 1, 2025, and routes new state employees into the defined contribution retirement plan. The bill also authorizes payments from the strategic investment and improvements fund to PERS to pay the unfunded liability on the deferred benefit plan and allocates funding from the legacy earnings fund to pay down the unfunded liability from the main system defined benefit plan and to cover administrative service costs.

[House Bill No. 1183](#) expands the definition of "peace officer" for purposes of PERS to include a peace officer who is employed by the state rather than the BCI and exclude individuals who are employed by the Highway Patrol and participate in the Highway Patrol retirement plan under Chapter 39-03.1. The bill requires a peace officer other than a peace officer employed by the BCI to pay 6 percent of the employee's monthly salary to PERS. The bill sets the normal retirement date for a peace officer employed by the state, excluding a peace officer employed by the BCI, as the 1<sup>st</sup> day of the month following the month in which the peace officer turns 55 years of age and has completed at least 3 eligible years of employment or when the peace officer has a combined total years of service credit and years of age equal to 85 and has not received a retirement benefit under Chapter 54. The bill sets the early retirement for a peace officer employed by the state or the BCI as the 1<sup>st</sup> day of the month following the month in which the peace officer turns 50 years of age and has completed at least 3 years of eligible employment. The bill also sets normal retirement benefits for a peace officer employed by the state or the BCI reaching the normal retirement date as an annual amount, payable monthly, which is equal to a prior service benefit of 2 percent of average salary multiplied by the number of years of prior service employment plus a service benefit of 2 percent of the final average salary multiplied by years of employment for members first enrolled before January 1, 2020, and 1.75 percent of final average salary multiplied by years of employment for members first enrolled after December 31, 2019.

[House Bill No. 1309](#) requires BCI employees increase their retirement contribution by 1 percent each year over the next 2 calendar years and increases the vesting period from 3 to 10 years of service for a peace officer employed by the BCI after July 31, 2023. The bill also allows peace officers employed by the BCI who are employed before August 1, 2023, to retire on the 1<sup>st</sup> day of the month following the month in which the officer turns 50 years of age after completion of 3 years of eligible employment, and allows peace officers employed by the BCI who are employed after July 31, 2023, to retire the 1<sup>st</sup> day of the month following the month in which the officer turns 50 years of age after completion of 10 years of eligible employment. The bill creates a multiplier of 3 percent of final average salary for a peace officer's first 20 years of service and reduces that multiplier to 1.75 percent of final average salary for service beyond 20 years for retirement benefits of a peace officer employed by the BCI.

[House Bill No. 1411](#) requires the PERS Board to provide health insurance benefits coverage for the medically necessary purchase and maintenance of prosthetic appliances and limbs under a contract for insurance or under a self-insurance plan. This bill was declared to be an emergency measure and became effective on March 16, 2023.

[Senate Bill No. 2012](#) amends Senate Bill No. 2140 by providing coverage for insulin drug and medical supplies does not apply to the Medicare Part D prescription drug coverage plan or to an enrollee of a high-deductible health plan until after the enrollee has satisfied the minimum deductible under Section 26 U.S.C. 223.

[Senate Bill No. 2140](#) requires the PERS Board to provide health insurance benefits coverage that provides for insulin drug and medical supplies for insulin dosing and administration and limits out-of-pocket costs for a 30-day supply of covered insulin drugs and covered medical supplies for insulin dosing administration to \$25 per pharmacy or distributor. The bill also prohibits a pharmacy benefits manager, pharmacy, or distributor to charge, collect, or require a covered individual to make a payment for more than the out-of-pocket limit and prohibits the imposition of a deductible, copayment, coinsurance, or other cost-sharing requirement that causes out-of-pocket costs for insulin or covered medical supplies to exceed the out-of-pocket limit.

## **CLEAN SUSTAINABLE ENERGY AUTHORITY**

[Senate Bill No. 2165](#) increases the membership of the Clean Sustainable Energy Authority from 16 to 17 members by increasing the number of members appointed by the Legislative Management to one member from the Senate and one member from the House of Representatives to serve as co-Chairmen of the Clean Sustainable Energy Authority.

[Senate Bill No. 2233](#) requires an annual audit of the clean sustainable energy fund.

## **STATE LIBRARY**

[Senate Bill No. 2013](#) amends the term "public library" to include tribal libraries for purposes of Chapter 54-24.3.

[Senate Bill No. 2050](#) repeals Section 54-24.2-02.2 relating to state aid to public libraries, removes the requirement that the State Library allow libraries other than depository libraries to request state documents, authorizes the State Librarian to adjust the public library grant formula based on an appeal by a public library that was determined ineligible, requires the Tax Commissioner to certify taxable valuations relating to local library funding to the State Library by May 15 of each year, and removes the requirement that the North Dakota library coordinating council serve as the state advisory council on libraries. The provisions relating to state aid, the grant formula, and certification of taxable valuations were declared to be an emergency by Senate Bill No. 2013 and became effective May 15, 2023.

## **STATE INVESTMENT OFFICE**

[Senate Bill No. 2022](#) provides the Retirement and Investment Office discretion to develop an incentive compensation program for full-time equivalent investment and fiscal operations positions necessary for managing investment of funds under the control of the State Investment Board and requires the State Investment Board to provide a report on the status of the program to the Legislative Management each interim. The bill also exempts investment and fiscal operations positions in the Retirement and Investment Office from the list of classified positions.

## **NORTH DAKOTA UNIVERSITY SYSTEM**

[House Bill No. 1003](#), the appropriation for the North Dakota University System, requires \$2 million of the \$10 million private donation to a higher education institution foundation through the Theodore Roosevelt Presidential Library and Museum endowment fund be used to digitize documents relating to Theodore Roosevelt and the remainder be used to digitize documents and create a Theodore Roosevelt Conservation Scholars Program. The bill also extends, through 2025, the exception to OMB's authority to cancel unexpended appropriations for unexpended appropriations for the University System.

## **WORKFORCE SAFETY AND INSURANCE**

[Senate Bill No. 2116](#) removes Workforce Safety and Insurance from the list of state agencies required to submit a biennial report covering the agency's operations to the Governor and Secretary of State.

## **MISCELLANEOUS**

[Senate Bill No. 2229](#) designates curling as the official sport of North Dakota.

**TITLE 55**  
**State Historical Society and State Parks**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 55.

[Senate Bill No. 2018](#) limits the applicable laws for persons identifying, evaluating, or mitigating adverse effects on cultural resources, historic buildings, structures, or objects for purposes of requiring an annual permit from the Director of the State Historical Society to 36 CFR 800 and any applicable state law. The bill replaces the \$100 permit application filing fee and \$50 document submission fee with a fee determined by the Director and adds monitoring reports to the list of documents that must be accompanied by a fee. The bill also replaces the \$100 permit application fee with a fee determined by the Director for persons engaged in the investigation, excavation, or other recording of cultural resources on land owned by an instrumentality of the state or in the excavation of cultural resources on private land and grants the Director the authority to waive the fee.

[Senate Bill No. 2108](#) eliminates a discretionary provision that allowed the Director of the Parks and Recreation Department to waive the collection of charges, fees, or rentals for the use of special services by health care-related charitable organizations conducting group camp activities and a mandatory provision requiring the Director to waive all charges, fees, and rentals for the use of special services by care-related charitable organizations conducting or sponsoring summer group camp activities free of charge for children who have diabetes. The bill eliminates a discretionary provision allowing the Director to charge a fee for entrance to any pageant grounds and for the provision of special technical assistance to groups requesting information from the natural heritage inventory database. The bill requires the Director to establish an annual permit fee for motor vehicle entry to a state park, state recreational area, or reserve and allows for the provision of discount or package fees. The bill removes the prohibition on crediting lease rental and motor vehicle permit fees to operating accounts. The bill also repeals a provision of law relating to the issuance of recreational leadership and facilities grants.

**TITLE 57**  
**Taxation**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 57.

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

**PROPERTY TAXES**

[House Bill No. 1038](#) removes obsolete language relating to city and county general fund levy limitations.

[House Bill No. 1057](#) updates the deadline to publish city and township boards of equalization notices from not earlier than March 1 for the first notice to 45 days before the equalization proceedings and from March 20 for the second notice to not less than 14 days before the equalization proceedings. The bill requires equalization proceedings in an organized township to occur in April. The bill also makes changes to provisions relating to sales and use tax, gross receipts tax, and mineral tax, which are described in the sales, use, motor vehicle excise, and gross receipts taxes and mineral taxes sections of this title summary.

[House Bill No. 1158](#) expands the homestead credit by adjusting the income limits and maximum taxable valuation reduction amounts for qualifying individuals and removing the requirement that an individual's assets not exceed \$500,000 to qualify for the credit. The bill compresses the qualifying income brackets from six to two and provides an eligible individual with income not in excess of \$40,000 is entitled to a reduction of 100 percent of the taxable valuation of the person's homestead, up to a maximum reduction of \$9,000 of taxable valuation, and an individual with income between \$40,001 and \$70,000 is entitled to a reduction of 50 percent of the taxable valuation of the person's homestead, up to a maximum reduction of \$4,500 of taxable valuation.

The bill also creates a state-paid primary residence credit of \$500 against the property tax due on each primary residence for tax years 2024 and 2025. To receive the credit, a qualifying taxpayer is required to sign and file with the Tax Commissioner an application containing a verified statement of facts establishing the applicant's eligibility for the credit. The credit may not exceed the amount of property tax due on the primary residence and may not reduce the liability for special assessments levied upon any property. Only one credit may be applied against the property taxes levied against any primary residence.

The bill also makes changes to provisions relating to income tax, which are described in the income taxes section of this title summary.

[House Bill No. 1170](#) provides a 15 year exemption from property tax for pipeline property that is part of a natural gas transmission or distribution pipeline system constructed in the state if the construction of the pipeline commences after January 1, 2023, the pipeline provides service to a city or township located within the state in which the majority of households or businesses did not have access to natural gas service as of January 1, 2023, and the pipeline is located in the state.

[House Bill No. 1212](#) makes the disabled veteran property tax credit available to a surviving spouse of a qualifying veteran who receives United States Department of Veterans Affairs dependency and indemnity compensation, including when eligibility for dependency and indemnity compensation is determined after the qualifying veteran's death. The bill also makes changes to provisions relating to motor vehicle excise tax, which are described in the sales, use, motor vehicle excise, and gross receipts taxes section of this title summary.

[House Bill No. 1245](#) requires taxing districts to express property tax levies in dollars rather than mills when communicating with the public and comparing the amount levied in the current taxable year to the amount levied in preceding taxable years. The bill also requires the county auditor of each county to provide to the State Auditor a financial report showing ending balances of the county general fund and county road and bridge fund for the preceding calendar year, including the amount in each fund which is committed for a specific use, regardless of whether an audit is complete.

[House Bill No. 1267](#) provides when an owner of record title owns multiple parcels subject to foreclosure proceedings due to unpaid taxes, the county treasurer is required to use the aggregate amount of outstanding taxes, special assessments, penalties, interest, and associated costs applicable to all parcels of property and

the aggregate proceeds from all public or private sales of the parcels of property to determine the amount of excess proceeds, if any, available for distribution.

[House Bill No. 1365](#) provides after December 31, 2025, special taxes levied under the county emergency medical service levy must be distributed to a political subdivision having ownership of a licensed ambulance service or responsible for the emergency medical service program for the service area, if applicable.

[House Bill No. 1438](#) expands the property tax exemption for buildings and land belonging to institutions of public charity to include up to 50 acres of undeveloped land owned by a public hospital or nursing home under the control of a religious or charitable institution for the purpose of a future building belonging to the public hospital or nursing home. The exemption expires 10 years after the taxable year in which the property was acquired by the public hospital or nursing home if construction improvements to accommodate a building belonging to the public hospital or nursing home have not commenced. The bill defines "undeveloped land" to include land undergoing construction or containing improvements to accommodate a building belonging to a public hospital or nursing home under the control of a religious or charitable institution before the building is completed and suitable for use. **Section 53 of Senate Bill No. 2015 would have provided for retroactive application of the bill to taxable years beginning after December 31, 2021, but the section was vetoed by the Governor on May 9, 2023.**

[House Bill No. 1439](#) expands the property tax exemption for church property to include undeveloped land owned by a religious corporation or organization for the purpose of a future parsonage or residence. The bill also defines "undeveloped land" for purposes of the property tax exemption to include land undergoing construction or containing improvements to accommodate a future church building or parsonage and residence before the building or parsonage and residence is completed and suitable for use. This bill applies retroactively to taxable years beginning after December 31, 2020.

[Senate Bill No. 2006](#) requires an assessment increase notice to property owners contains a statement informing the taxpayer that an assessment increase may result in a property tax increase on the parcel and allows the notice to contain an estimate of the property tax increase attributable to the assessment increase. The bill also makes changes to provisions relating to sales and use tax and miscellaneous tax provisions, which are described in the sales, use, motor vehicle excise, and gross receipts taxes and miscellaneous tax provisions sections of this title summary.

[Senate Bill No. 2121](#) requires the county treasurer to include the actual amount of the special assessment installment payable against a parcel of land in the immediately preceding taxable year on the estimated property tax and budget hearing notice.

[Senate Bill No. 2178](#) increases the maximum allowable balance in a township's special road fund from \$100,000 to \$500,000 for any one congressional township.

## INCOME TAXES

[House Bill No. 1158](#) provides individual income tax rate reductions and consolidates the individual income tax brackets from five to three brackets, with income in the first bracket exempt from tax. Rates in all brackets are reduced from a range of 1.1 to 2.9 percent to a range of 0 to 2.5 percent of taxable income. The bill also makes changes to provisions relating to property tax, which are described in the property taxes section of this title summary.

[House Bill No. 1168](#) provides an income tax credit for the purchase of manufacturing and animal agricultural machinery and equipment for the purpose of automating manufacturing and animal agricultural processes in this state to improve job quality or increase productivity. The credit is equal to 15 percent of the cost of manufacturing machinery and equipment purchased during the taxable year. Purchases must result in a 5 percent increase in average wages, workforce safety, or output to qualify for the credit. The aggregate amount of credits that may be claimed each year is limited to \$3 million, with \$500,000 set aside for first-time claimants for animal agricultural automation machinery and equipment and \$500,000 set aside for first-time claimants for manufacturing automation machinery and equipment.

[House Bill No. 1176](#) provides an income tax credit for adoption expenses. The credit is equal to 10 percent of the federal adoption credit allowed under Section 23 of the Internal Revenue Code [26 U.S.C. 23] claimed by the taxpayer in the current taxable year, but may not exceed 50 percent of the taxpayer's income tax liability.

The bill also provides an income tax credit for contributions made to a maternity home, child-placing agency, or pregnancy help center. The credit is equal to the aggregate amount of charitable contributions made by the taxpayer during the taxable year to a maternity home, child-placing agency, or pregnancy help center, not to exceed 50 percent of the taxpayer's income tax liability or \$2,500, whichever is less.

[House Bill No. 1244](#) reinstates expired provisions relating to the income tax credit available to corporate taxpayers for employing individuals with developmental disabilities or severe mental illness. The reinstated provisions include expanding the credit to all taxpayers, rather than only corporate income taxpayers, and increasing the allowable credit amount from 5 to 25 percent of up to \$6,000 in wages paid annually by the taxpayer for each employee with a developmental disability or severe mental illness. The bill requires a taxpayer to apply for and receive a certified letter from the Department of Health and Human Services' Vocational Rehabilitation Division verifying the employee has a significant disability, is eligible for services, and requires customized employment to obtain employment.

[House Bill No. 1383](#) creates an income tax credit for qualified compensation paid to an individual who is an apprentice in an apprenticeship program under Title 29, Code of Federal Regulations, Subtitle A, Part 29, or an apprentice electrician registered under state law who is employed in this state by the taxpayer. To qualify for the credit, a taxpayer is required to directly employ, supervise, and evaluate a qualified apprentice in an apprenticeship position located in this state and provide the Tax Commissioner with proof of certification or other information prescribed by the Tax Commissioner. The amount of the credit is 10 percent of the stipend or salary paid to up to five qualified apprentices employed by the taxpayer during the taxable year and may not exceed an aggregate amount of \$3,000 in credits per taxpayer for all taxable years combined.

[Senate Bill No. 2147](#) provides an income tax deduction for retired law enforcement personnel benefits received by a taxpayer who has a combined total of at least 20 years of experience or has medically retired from the individual's duties as a peace officer due to mental or physical disability.

[Senate Bill No. 2293](#) provides an income tax deduction for military pay received by an individual who is a member of the armed forces of the United States on federal active duty, a member of the National Guard, or a reserve member of the armed forces of the United States, to the extent the military pay is included in the taxpayer's North Dakota taxable income. The bill defines "military pay" as all federal pay for training, education, mobilization, and bonuses and state pay when called to support an emergency on state active duty.

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

[House Bill No. 1012](#) provides, after specified statutorily mandated deposits, the remaining motor vehicle excise tax revenue is allocated equally between the general fund and the flexible transportation fund.

[House Bill No. 1057](#) provides the timeline for publishing the first and second notice for equalization meetings and allows a township board of equalization to meet anytime in the month of April, rather than within the first 15 days of April. The bill allows notices authorized or required under Chapter 57-39.2 and issued after June 30, 2023, to be sent by first class mail with proof of address, rather than by registered or certified mail. The bill updates the definition of "snuff" to include tobacco intended to be placed in the mouth or nose. The bill also makes changes to provisions relating to property tax and mineral tax, which are described in the property taxes and mineral taxes sections of this title summary.

[House Bill No. 1177](#) provides for a sales tax exemption for sales of children's diapers.

[House Bill No. 1210](#) expands the sales and use tax exemption for purchases made by a qualifying senior citizen organization that provides information, health, welfare, counseling, and referral services for senior citizens to include a senior citizen organization that provides services through a contract with the Department of Health and Human Services as a program of all inclusive care for the elderly and meets the other criteria for the exemption. The bill also requires the Department of Health and Human Services and Department of Transportation to notify the Tax Commissioner if a senior citizen organization no longer meets the criteria to qualify for the exemption. This bill was declared to be an emergency measure and became effective on April 24, 2023.

[House Bill No. 1212](#) makes the motor vehicle excise tax exemption for resident disabled veterans available to a surviving spouse of a qualifying veteran who receives United States Department of Veterans Affairs dependency and indemnity compensation, including when eligibility for dependency and indemnity compensation is determined after the qualifying veteran's death. The bill also makes changes to provisions relating to property tax, which are described in the property taxes section of this title summary.

[House Bill No. 1223](#) clarifies the eligibility requirements to qualify for the motor vehicle excise tax exemption for enrolled tribal members. The bill provides the motor vehicle excise tax exemption is allowed for motor vehicles acquired in the state by an individual who is an enrolled tribal member and whose primary residence is within the boundaries of any reservation in this state.

[House Bill No. 1274](#) authorizes the Attorney General to revoke the license of a dealer or distributor violating tobacco product manufacturer requirements under Chapter 51-25.1.

[House Bill No. 1359](#) extends the sunset date on the county aid distribution fund from June 30, 2023, to June 30, 2027.

[House Bill No. 1412](#) designates electronic smoking devices as tobacco products and provides distributors and dealers of electronic smoking devices are subject to the same requirements as traditional tobacco distributors and dealers, including licensing, recordkeeping, and reporting requirements.

[House Bill No. 1430](#) creates a sales and use tax exemption for sales of tangible personal property used in constructing, expanding, or making an environmental upgrade to a renewable feedstock refinery. To receive the exemption at the time of purchase, the owner of the renewable feedstock refinery must receive from the Tax Commissioner a certificate indicating the tangible property the owner intends to purchase to construct, expand, or make environmental upgrades to a renewable feedstock refinery qualifies for the exemption.

[House Bill No. 1455](#) creates a sales and use tax exemption for sales of raw materials, single-use product contact systems, and reagents used directly for discovery, testing, screening, and production for biologic manufacturing in this state. To receive the exemption at the time of purchase, the taxpayer must receive from the Tax Commissioner a certificate indicating the raw materials, single-use product contact systems, or reagents qualify for the exemption. The bill also requires taxpayers that receive the exemption to report to the Tax Commissioner the taxpayer's total sales and use tax liability exempted, total gross payroll, total property taxes paid and square footage of buildings owned by the taxpayer, total North Dakota Workforce Safety and Insurance premiums paid, North Dakota unemployment taxes paid, and total state income tax withheld by the taxpayer. The exemption is available for taxable events occurring through June 30, 2029.

[House Bill No. 1511](#) creates a sales and use tax exemption for sales of tangible personal property used to construct or expand a coal processing facility that utilizes coal as a feedstock. To qualify for the exemption, the tangible personal property must be incorporated in the structure of the facility or used in the construction process to the point of having no residual economic value. To receive the exemption, the owner of the coal processing facility must receive from the Tax Commissioner a certificate indicating the tangible personal property used to construct or expand the coal processing facility that utilizes coal as a feedstock qualifies for the exemption. The bill also makes changes to provisions relating to mineral tax, which are described in the mineral taxes section of this title summary.

[Senate Bill No. 2006](#) creates a sales and use tax exemption for sales of tangible personal property used to construct, expand, or upgrade a facility that refines renewable feedstock into sustainable aviation fuel. To receive the exemption at the time of purchase, the owner of the facility must receive from the Tax Commissioner a certificate that the tangible personal property the owner intends to purchase to construct, expand, or upgrade the facility qualifies for the exemption. The exemption is available for taxable events occurring through June 30, 2025. The bill also makes changes to provisions relating to property tax and miscellaneous tax provisions, which are described in the property taxes and miscellaneous tax provisions sections of this title summary.

[Senate Bill No. 2141](#) excludes charges and fees for auction services from the definition of "purchase price" for purposes of calculating motor vehicle excise tax.

[Senate Bill No. 2334](#) eliminates the deadline by which an owner of a fertilizer or chemical processing plant must receive from the Department of Environmental Quality an air quality permit or notification that the air quality permit application is complete to qualify for the sales and use tax exemption for materials used to construct a fertilizer or chemical processing facility.

The bill creates a large facility development fund, which is effective through June 30, 2027. The fund consists of a portion of sales, gross receipts, and use tax collections. The State Treasurer is required to distribute an amount from the fund equal to 1 percent of up to \$2 billion of the estimated cost of tangible property eligible for a tax exemption under Section 57-39.2-04.15 used in the construction of the large facility if the county or city is levying a local sales tax for infrastructure, public safety, or economic development, and the county in which the large facility is located has a hub city that received at least \$30 million of oil and gas gross production tax revenue allocations from September 1, 2021, through August 1, 2022. To qualify for the distribution, the large facility must be a new fertilizer or chemical processing plant eligible for a tax exemption under Section 57-39.2-04.15, begin construction after July 1, 2023, and have an estimated total cost of at least \$1 billion. A county or city is limited to receiving one distribution, and if the large facility is within city limits, only the city is eligible to receive a distribution. Counties or cities that receive a distribution from the fund are required to report to the Legislative Management regarding the use of the funding.

The bill also modifies the allocation of sales tax revenue to reflect the deposit of sales, gross receipts, and use tax collections in the large facility development fund, effective through June 30, 2027.



[Senate Bill No. 2377](#) removes the requirement for an agreement between the Governor and the governing body of any tribe in this state for the collection and administration of alcoholic beverage wholesale tax, alcoholic beverages gross receipts tax, or tobacco products wholesale tax to include an agreement for all three taxes. The bill replaces the method of allocating revenue under an agreement for the collection and administration of alcoholic beverages wholesale tax and alcoholic beverages gross receipts tax from one determined by multiplying the enrolled membership of the tribe by the tax revenue generated per capita for the respective tax type to a method which allocates 80 percent of the tax revenue to the tribe and 20 percent to the state. The bill also provides the venue for any controversy or claim between a tribe and the state arising out of or relating to an agreement for the collection and administration of alcoholic beverage wholesale tax, alcoholic beverages gross receipts tax, or tobacco products wholesale tax is the United States District Court for the District of North Dakota, Western Division.

## MINERAL TAXES

[House Bill No. 1040](#) modifies distribution of the state's share of oil and gas tax revenue by adding a \$65 million allocation to the public employees retirement fund for the main system plan.

[House Bill No. 1057](#) requires the Tax Department to post notices of gas base rate adjustments and gas tax rate information on the Tax Department's website for notices issued after June 30, 2023, rather than mailing written notices to affected producers. The bill also makes changes to provisions relating to sales and use tax, gross receipts tax, and property tax, which are described in the sales, use, motor vehicle excise, and gross receipts taxes and property taxes sections of this title summary.

[House Bill No. 1165](#) replaces the State Health Officer with the Department of Environmental Quality as the entity to which operators of coal gasification plants must file an annual report listing the byproducts produced by the gasification plant.

[House Bill No. 1286](#) allows a tribe to make an irrevocable election to opt out of the oil extraction tax rate increase triggered by an increase in the average price of a barrel of crude oil by providing written notice to the Tax Commissioner.

[House Bill No. 1427](#) provides a reduced oil extraction tax rate of 2 percent of the gross value at the well for oil extracted from a certified restimulation well for the first 75,000 barrels of oil extracted or 18 months, whichever occurs first. A restimulation well is defined as a previously completed oil or gas well that, following completion and production of oil, has been treated with an application of fluid under pressure for the purpose of initiating or propagating fractures in a target geologic formation to enhance production of oil. A restimulation well does not include a well that has less than 60 months of production or is producing more than 125 barrels of oil per day reported to the Industrial Commission before completion of the restimulation treatment; is part of a qualifying secondary recovery project, qualifying tertiary recovery project, or stripper well or stripper well property; or is drilled but not completed and does not have a record of oil production reported to the Industrial Commission. The bill allows a tribe to make an irrevocable election to opt-in to the tax rate reduction by providing written notice to the Tax Commissioner. The bill requires the certification of qualifying well status prepared by the Industrial Commission to be submitted to the Tax Commissioner within 6 months of the month in which the first oil was produced from the restimulation well for the well to qualify for the rate reduction from the first day of eligibility.

[House Bill No. 1511](#) creates a severance tax exemption for the first 1 million tons of coal per year used as a feedstock by a coal processing facility that utilizes coal as a feedstock in this state. The owner or operator of the coal processing facility that utilizes coal as a feedstock is required to certify to the coal mine owner or operator the amount of coal purchased for use as a feedstock by the facility; used as a feedstock by the facility for extraction of critical minerals or rare earth elements from lignite coal; used as a feedstock by the facility to create tangible personal property other than electricity, water, gas, or steam from lignite coal; and resold or used in any manner other than as a feedstock at the facility. The coal mine owner or operator is required to report the amounts of coal certified by the owner or operator of the facility to the Tax Commissioner and pay any severance tax due. The bill also makes changes to provisions relating to sales and use tax, which are described in the sales, use, motor vehicle excise, and gross receipts taxes section of this title summary.

[Senate Bill No. 2059](#) increases the abandoned oil and gas well plugging and site reclamation fund balance threshold at which the State Treasurer ceases transferring oil and gas gross production tax revenue to the fund from \$50 million to \$100 million through June 30, 2027.

[Senate Bill No. 2161](#) extends the sunset date on the state energy research center fund from June 30, 2027, to June 30, 2029. The bill also increases the maximum amount of oil and gas gross production tax and oil

extraction tax revenues that may be deposited in the state energy research center fund from \$5 million to \$7.5 million per biennium.

[Senate Bill No. 2162](#) removes the requirement for counties to levy 10 mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes in order to receive certain distributions from the oil and gas gross production tax allocation formula.

[Senate Bill No. 2367](#) modifies distribution of the state's share of oil and gas tax revenue by increasing the first distribution to the general fund from \$200 million to \$230 million, replacing the \$200 million distribution to the tax relief fund with a \$230 million distribution to the social services fund, and increasing the second distribution to the general fund from \$200 million to \$230 million.

## **FUELS TAXES**

[House Bill No. 1099](#) eliminates the requirement to reduce motor vehicle fuel tax refunds claimed by a consumer who buys or uses motor vehicle fuel for an industrial purpose and to deposit the one-half cent withheld from the refund into the agricultural products utilization fund.

[Senate Bill No. 2008](#) removes the sunset date on the deposit into the rail safety fund of a portion of special fuels excise tax revenue from sales of diesel fuel to a railroad. The bill also increases the maximum annual amount that may be deposited into the rail safety fund from \$297,362 to \$332,327.

## **EMERGENCY SERVICES COMMUNICATIONS FEES**

[House Bill No. 1242](#) modifies the allowable use of the additional 50 cent fee imposed on assessed communications services for deposit in the statewide interoperable radio network fund from being used to implement the statewide interoperable radio network to being used for ongoing administrative and operational maintenance costs of the statewide interoperable radio network. This bill was declared to be an emergency measure and became effective on April 14, 2023.

## **MISCELLANEOUS TAX PROVISIONS**

[Senate Bill No. 2006](#) increases the salary of the Tax Commissioner from \$124,250 to \$131,705 beginning July 1, 2023, and to \$136,973 effective July 1, 2024. The bill also makes changes to provisions relating to sales and use tax and property tax, which are described in the sales, use, motor vehicle excise, and gross receipts taxes and property taxes sections of this title summary.

**TITLE 58**  
**Townships**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 58.

[House Bill No. 1236](#) allows townships to hold annual township meetings on any day in the month of March rather than the third Tuesday of March. The bill also increases the compensation and expense reimbursement for township supervisors, the township clerk, and the township treasurer.

[House Bill No. 1423](#) prohibits a board of township supervisors from adopting or enforcing setbacks applicable to animal feeding operations which exceed the Department of Environmental Quality setback distances provided in Section 23.1-06-15 for the regulation of odors. The bill requires a township to make a valid determination when permitting animal feeding operations rather than a simple decision and clarifies the impact of court involvement on the procedural timeline. The bill prohibits a township from charging more than an aggregate amount of \$500 in fees or expenses relating to an animal feeding operation or requiring an existing animal feeding operation that is in compliance with state and federal regulations to obtain permits for improvements or modifications. The bill requires a court to award attorney's fees to the prevailing party in an action challenging the validity of a township ordinance relating to an animal feeding operation.

**TITLE 59**  
**Trusts, Uses, and Powers**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 59.

[Senate Bill No. 2210](#) removes an exemption from the application of Chapters 59-09, 59-10, 59-11, 59-12, 59-13, 59-14, 59-15, 59-16, 59-17, 59-18, and 59-19 for a trust that is part of an employee benefit arrangement or an individual retirement account.

**TITLE 60**  
**Warehousing and Deposits**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 60.

[House Bill No. 1393](#) transfers the statutory provisions relating to grain and seed warehouses, grain buyers, insolvent grain warehousemen, uniform accounting for public elevators and warehouses, and credit-sale contracts indemnity by repealing various chapters in Title 60 and relocating the repealed provisions to Title 4.1, under the authority of the Agriculture Commissioner.

**TITLE 61**  
**Waters**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 61.

[House Bill No. 1038](#), as part of a technical corrections bill, removes and replaces a reference to the State Engineer with the Department of Water Resources as it relates to permits required to drain subsurface waters.

[House Bill No. 1072](#) changes the division of the North Dakota Atmospheric Resource Board from the State Water Commission to the Department of Water Resources to reflect the Department's name change after the 2021 legislative session. The bill also removes outdated vendor requirements in bidding for contract services by repealing Section 61-04.1-35.

[House Bill No. 1073](#) updates regulations relating to water storage reservoirs by eliminating the requirement for an operator of a water storage reservoir with a capacity of more than 1,000 acre-feet to submit an annual operating plan to the Department of Water Resources. The bill also removes the emergency interim operating plan procedures and removes a reference to the cancellation of water use permits from Section 61-03-21. The bill requires all water storage reservoirs to maintain adequate structures.

[House Bill No. 1074](#) replaces the term "informational hearings" with "public hearings" in regard to water permit application hearings to clarify the hearing provides an opportunity for public comment regarding the proposed water permit application.

[House Bill No. 1075](#) updates the process for cancellation of water rights by allowing the Department of Water Resources to provide notice of cancellation to affected landowners other than the water permitholder through publication rather than by certified mail and by replacing the notice of cancellation hearing with a public comment period.

[House Bill No. 1076](#) classifies dams as low-hazard, medium-hazard, or high-hazard in regard to permitting requirements and provides a construction permit must be secured for an agriculture dike capable of protecting more than 80 acres of land area or a dike capable of protecting an occupied residence or structure or public infrastructure. The bill also eliminates the requirement for a professional engineer to design an agricultural dike of any height or a farmstead ring dike.

[House Bill No. 1077](#) requires a federal agency that engages in discussions with an entity for a water storage contract from a reservoir within the state to notify the Department of Water Resources and copy the department on any communications regarding the water storage contract. The bill also requires the federal agency to provide the department with an executed copy of any resulting water storage contract.

[House Bill No. 1089](#) removes a requirement for the Department of Environmental Quality to obtain approval from the State Water Commission to disperse money from the drinking water treatment revolving loan fund. The bill also allows the Governor to appoint a designee to approve transfers between the water pollution control revolving loan fund and the drinking water treatment revolving loan fund.

[House Bill No. 1098](#) removes a community's eligibility to obtain relief under the national flood insurance program on insurable structures within the Federal Emergency Management Agency's identified flood hazard areas if the community fails to adopt floodplain management ordinances required under the national flood insurance program.

[House Bill No. 1218](#) replaces the Northwest Area Water Supply Advisory Committee with the Northwest Area Water Supply Authority and outlines the authority's elected and appointed members, duties, and powers under the State Water Commission.

[House Bill No. 1239](#) codifies in a new section of law the language in former Section 61-32-03.2, which expired on December 31, 2022, relating to smaller subsurface water management systems. The section requires a person to provide notice to the appropriate water resource district board before installing a subsurface water management system on agricultural farmland of less than 80 acres. The bill was declared to be an emergency measure and became effective on April 28, 2023.

[House Bill No. 1385](#) adds federally recognized Indian tribes to the list of political subdivisions and entities with which the State Water Commission may enter contracts. The change allows a contracting tribe to be an eligible sponsor under the Department of Water Resources' cost-share program.

[House Bill No. 1391](#) requires water resource boards to publish the unofficial meeting minutes in the official county newspaper, on the water resource board website, or on the official county website within 10 days of a meeting of the board.

[Senate Bill No. 2015](#) removes the mandatory requirement for the board of county commissioners of a member district to approve a levy of tax after forming a joint water resource board under Section 61-16.1-11.

[Senate Bill No. 2020](#) increases the maximum line of credit the Bank of North Dakota extends to the Department of Water Resources from \$50 million to \$100 million; applies the prevailing interest rate charged to North Dakota government entities to the line of credit; and sets the maximum amount the Department of Water Resources may provide to the Northwest Area Water Supply Project and Southwest Pipeline Project at \$50 million each during the biennium. The bill was declared to be an emergency measure and became effective on May 9, 2023.

[Senate Bill No. 2036](#) creates a uniform procedure for all water resource boards regarding water-related projects by repealing Chapter 61-21 and creating a uniform procedure under Chapter 61-16.1 relating to definitions, general powers of water resource boards, project petitions, assessments, notification, hearings, appeals, warrants, and drain construction, repair, maintenance, and closure.

[Senate Bill No. 2097](#) requires a political subdivision to provide notice to state agencies, local water boards, legislators, county commissions, and other stakeholders before engaging in meetings with any federal agency relating to the designation of a waterbody in the state as a wild, scenic, or recreational river under the Wild and Scenic Rivers Act. The bill requires a political subdivision to share copies of any written communication between the federal agency and hold public hearings regarding a potential designation. The bill also requires the written support of the Governor and the county commission of any county impacted before a waterbody may be designated a wild, scenic, or recreational river under the Wild and Scenic Rivers Act.

[Senate Bill No. 2196](#) changes the oversight authority over the Western Area Water Supply Authority (WAWSA) from the Industrial Commission to the State Water Commission. The bill refinances certain WAWSA's debt into the infrastructure revolving loan fund at a fixed interest rate of 2 percent with a final maturity date of July 1, 2053. The bill provides guidelines for the Bank of North Dakota and the State Water Commission for payments if WAWSA incurs a debt or defaults on its principal or interest payment on a loan from the infrastructure revolving loan fund. The bill also transfers to the general fund any accrued and unpaid interest on the \$25 million loan granted to WAWSA from the general fund and requires forgiveness of the accrued and unpaid interest on the \$10 million, \$20 million, and \$19.5 million loans to WAWSA from the resource trust fund. This bill was declared to be an emergency measure by Senate Bill No. 2020 and became effective on May 9, 2023.

[Senate Bill No. 2364](#) restricts the Garrison Diversion Conservancy District's use of permanent easement properties to the construction, operation, and maintenance of facilities authorized by law. The bill prohibits the Garrison Diversion Conservancy District from renting, selling, or assigning the rights to a permanent easement to anyone except the state of North Dakota for the operation and maintenance of a public water pipeline. The bill also provides for the transfer of easements if the Garrison Diversion Conservancy District ceases operation.

[Senate Bill No. 2372](#) mandates all county water boards within the Red River, James River, Mouse River, Missouri River, and Devils Lake drainage basins to form and remain a member of a joint water resource board to collaborate on water-related projects. The bill expands the service requirement for project resolutions by requiring the board to serve any applicable school district, park district, or political subdivision benefiting from a water-related project under Section 61-16.1-15.1. The bill also requires joint boards follow all procedures required by county boards when constructing, assigning, and assessing a project.

**TITLE 62.1**  
**Weapons**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 62.1.

[House Bill No. 1339](#) allows a non-resident to carry a loaded handgun, rifle, or shotgun in a motor vehicle if the non-resident is not otherwise precluded from possessing the weapon and the non-resident possess a valid driver's license or nondriver identification card from the state or territory in which the non-resident resides. The bill requires the Director of the Bureau of Criminal Investigation to issue a concealed carry license to an applicant if the applicant can show the applicant possesses a valid driver's license or nondriver identification card from the applicant's state or territory of residence which verifies the applicant's personal information is accurate and the applicant has a valid concealed carry license from the applicant's state of residence which has reciprocity with this state. The bill repeals Section 2 of Chapter 499 of the 2021 Session Laws, which provided for a contingent expiration date for concealed weapons provisions.

[House Bill No. 1340](#) prohibits home-rule cities and counties from enacting zoning ordinances regulating the purchase, sale, ownership, possession, transfer of ownership, registration, or licensure of firearms and ammunition. The bill allows home-rule cities and counties to enforce ordinances and zoning regulations that restrict business operations if those restrictions are applied equally to all businesses that are subject to the regulation and the restrictions are not explicitly related to the regulation of firearms and ammunition.

[House Bill No. 1350](#) defines the term "possession" as used throughout Title 62.1 as an individual having direct physical control of something on or around the individual's person or the power and intention to exercise control over something accessible to but not on or around the individual's person.



**TITLE 63**  
**Weeds**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

There was no 2023 legislation enacted which affected North Dakota Century Code Title 63.

**TITLE 64**  
**Weights, Measures, and Grades**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 64.

[House Bill No. 1096](#) eliminates the licensing requirement and fee for each registered service person that tests and certifies weighing and measuring devices and replaces the fee with an annual permit fee of \$50. The bill also replaces the \$100 annual registration fee payable by each registered service company with a \$100 permit fee.

**TITLE 65**  
**Workforce Safety and Insurance**  
**Summary of Bills Enacted by the 2023 Legislative Assembly**

This memorandum summarizes legislation affecting North Dakota Century Code Title 65.

The legislation relating to Workforce Safety and Insurance may be classified in these subject areas--operations and benefits, and miscellaneous.

**OPERATIONS AND BENEFITS**

[House Bill No. 1052](#) removes the restrictions on the classes of employees to whom coverage is available for preventative care rendered in response to an employee's exposure to a bloodborne pathogen to allow coverage for all employees. The bill clarifies a request for reconsideration is considered filed if received by Workforce Safety and Insurance within 45 days from the date the notice of decision was mailed. The bill also permits the disclosure of confidential information to local law enforcement and in instances of employer account transfers or consolidations. The bill authorizes Workforce Safety and Insurance to calculate employers' premiums using the best available information and expands Workforce Safety and Insurance's cease and desist authority.

[House Bill No. 1279](#) extends Workforce Safety and Insurance coverage for a full-time paid firefighter and law enforcement officer who experiences a cardiac event within 48 hours of a strenuous work-related activity, regardless of the individual's length of employment, and modifies the 5-year continuous service requirement to include full-time paid service outside the state. The bill, which applies retroactively to a claim for workers' compensation benefits filed after October 1, 2021, was declared to be an emergency measure and became effective on February 2, 2023.

[Senate Bill No. 2116](#) adds officers of the Bismarck State College Police Department to the definition of law enforcement officer. The bill removes the requirement for Workforce Safety and Insurance to file a biennial report with the Governor and the Secretary of State and instead requires Workforce Safety and Insurance to make previously reported information available to the public and to update the information at least biennially. The bill removes the requirement for Workforce Safety and Insurance to issue and enforce rules and safety regulations and instead gives Workforce Safety and Insurance the authority to do so when necessary. The bill removes the requirement for Workforce Safety and Insurance to file a monthly financial statement with the Office of Management and Budget. The bill also removes language pertaining to the educational revolving loan fund program while allowing funding to be appropriated for existing educational revolving loan fund obligations. The bill repeals four sections of Title 65 regarding an information fund, record retention, safety infraction penalties, and the retrospective rating program.

[Senate Bill No. 2214](#) excludes an athlete participating in a contact sport from the definition of an employee.

**MISCELLANEOUS**

[Senate Bill No. 2038](#) repeals the section requiring a quadrennial independent performance evaluation of Workforce Safety and Insurance.

[Senate Bill No. 2039](#) removes the requirement that Workforce Safety and Insurance provide status reports on current pilot programs, pilot programs completed within the previous 12 months, and safety grant programs.

[Senate Bill No. 2040](#) repeals the Workers' Compensation Review Committee and, as a result, changes the recipient of the quadrennial independent performance evaluation of Workforce Safety and Insurance from the Workers' Compensation Review Committee to the Legislative Management. However, the change in the recipient of the evaluation has no effect due to the repeal of the section requiring the evaluation in Senate Bill No. 2038.