

# STATUTES OF THE YUKON TERRITORY

PASSED BY THE LEGISLATURE OF THE YUKON TERRITORY IN THE YEAR 1987

**VOLUME 1** 

**CHAPTERS 1-6** 

In the Third Session of the Twenty-sixth Legislative Assembly

# TABLE OF CONTENTS

# STATUTES OF YUKON, 1987

BILL	CHAPTER		
<u>NO.</u>	<u>NO.</u>	TITLE	PAGE
7	1	First Appropriation Act-1987/88	01
18	2	Fourth Appropriation Act-1986/87	08
99	3	Human Rights Act	10
79	4	An Act to Amend the Medical Professions Act	23
23	5	An Act to Amend the Public Service Commission Act	25
52	6	An Act to Amend the Public Service Staff Relations Act	45

# STATUTES OF YUKON 1987, Chapter 1

#### FIRST APPROPRIATION ACT, 1987-88

(Assented to February 12, 1987)

Whereas it appears by message from the Commissioner and in the estimates accompanying the message that the sums mentioned in Schedules "A" and "B" of this Act are required for the purpose of defraying certain expenses of the public service of Yukon and for related purposes for the period of 12 months ending on March 31, 1988;

The Commissioner of the Yukon Territory, by and with the advice and consent of the Legislative Assembly, enacts as follows:

- This Act may be cited as the First Appropriation Act, 1987-88.
- 2. From and out of the Yukon Consolidated Revenue Fund there may be paid and applied a sum not exceeding in the whole \$114,302,000 for defraying the several charges and expenses of the public service of Yukon payable in the period of 12 months ending on March 31, 1988, as set forth in Schedules "A" and "B" of this Act and that sum shall not be paid or applied except in accordance with Schedules "A", "B", "C" and the Financial Administration Act.
- The due application of all monies paid or applied pursuant to section 2 shall be accounted for.

# FIRST APPROPRIATION ACT, 1987-88

# SCHEDULE "A"

Capital Votes	\$ (Dollars in 000's)				
02 Executive Council Office	44				
09 Community and Transportation Services	56,291				
7 Economic Development: Mines and					
Small Business	12,652				
03 Education	22,618				
16 Government Services	9,068				
15 Health and Human Resources	5,996				
08 Justice	178				
14 Renewable Resources	1,747				
13 Tourism	2,842				
18 Yukon Housing Corporation	2,740				
19 Yukon Liquor Corporation	126				
	<del></del>				
Total	114,302				
	-=====				

# FIRST APPROPRIATION ACT, 1987-88

# SCHEDULE "B"

41.

95. 5

# **GRANTS**

<u>Capital Votes</u>	Purpose/Legislation	Grant Amount (\$000's)			
02 Executive Council Office		-			
09 Community and Transportation Se	09 Community and Transportation Services				
07 Economic Development: Mines and					
Small Business		-			
03 Education		-			
16 Government Services		-			
15 Health and Human Resources - Day	y Care Development	300			
- Cor	mmunity Health & Social				
Ser	rvice Agency Development	<b>80</b> .			
<b>08</b> Justice		-			
14 Renewable Resources		-			
13 Tourism		-			
18 Yukon Liquor Corporation		-			
19 Yukon Housing Corporation		-			
Total		380			
		======			

#### FIRST APPROPRIATION ACT, 1987-88

SCHEDULE "C"

#### **OBJECTIVES**

### Departmental Objectives

### Executive Council Office

To provide the Executive Council and Yukon Government departments with a range of services intended to promote and coordinate activities relevant to the provision of analysis, support and advice on all matters relating to the activities of the Government as a whole.

#### Department of Community and Transportation Services

- To promote local self-government and to provide support to municipalities to offer the services and facilities which reflect their needs and to provide municipal services in unorganized communities.
- To provide for the planning, development and management of Yukon land and its use and to make land available to meet the needs of the Yukon.
- To plan, develop, maintain and regulate a transportation infrastructure and related services to support the social and economic development of the Yukon.
- To support the development of arts, sports and community recreation throughout the Yukon.
- To foster the development and provision of communication services to enhance the cultural, economic and leisure opportunities of Yukoners.

#### Department of Economic Development: Mines and Small Business

 To promote development of a self-sustaining Yukon economy, with a balance and diversification of primary, secondary, and service industries, providing an acceptable level of income for Yukon residents in either wages or in kind.

- To increase the participation of Yukoners in employment, management, and ownership of Yukon business: to decrease leakage of wages and profits from the Territory, and increase economic returns, capital accumulation, and local influence on economic decision-making for the Yukon.
- To promote a more equitable distribution of economic benefits throughout all regions and segments of the population.

#### Department of Education

- To ensure that all Yukoners are provided with the learning opportunities to achieve their maximum possible potential by the department planning, developing, managing and evaluating;
  - Primary, elementary and secondary education for all school age children;
  - French language programs;
  - Adult training and continuing education programs;
  - Manpower planning services, employment development and job retention programs;
  - Library and archival services.
- To provide funds for the development, promotion and evaluation of the Native language program and for the training of local instructors for the program, and to provide the required central support.

#### Department of Government Services

- To provide goods and services to all the Yukon Government's departments and agencies so that the physical resources of the government are acquired, allocated and utilized in an efficient and optimum manner.
- To co-ordinate and facilitate the Yukon Government's relationship with the private sector.

### Department of Health and Human Resources

 To reduce lack of opportunity due to health or social condition and enhance the potential and well-being of all Yukoners while recognizing and respecting age, gender, culture, abilities, and community differences.

#### Department of Justice

- To respond to Yukon community needs to provide services designated to reduce crime and to serve and protect victims and potential victims.
- To provide police services designed to preserve law and order.
- To provide court services.
- To provide secure housing and correctional services designed to protect communities from past offenders and to provide rehabilitative services to past offenders.
- To maintain safe employment, orderly and responsible commercial and professional services in the Yukon and to promote the public interest in labour-management harmony and the consumer interest in commercial and professional activities.
- To provide legal services to the Yukon Government.

#### Department of Renewable Resources

 To provide for the planning, development and management of the Yukon's renewable resources.

#### Department of Tourism

- To promote and develop the Yukon as a tourism destination for the economic and social benefit of Yukoners and to assist the private sector in similar efforts.
- To develop, enhance and transmit, for the benefit of all Yukoners and visitors, an appreciation and understanding of the Yukon's heritage as well as to preserve these resources for present and future generations.

#### Yukon Liquor Corporation

 To provide for and to regulate the purchase, transportation and sale of alcoholic beverages in the Yukon.

#### Yukon Housing Corporation

 To ensure the provision and availability of suitable and affordable accommodation to Yukon households in need, senior citizens, the disabled and special needs groups.

- To ensure the provision and availability of suitable accommodation to Government of Yukon staff living outside of Whitehorse, and to administer the Government's Employee Housing Buy-Back Program.
- To foster and promote programs that will assist the housing industry to supply adequate housing within Yukon.
- To create and promote an environment of community participation in the design development and delivery of housing programs.

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# STATUTES OF YUKON 1987. Chapter 2

#### FOURTH APPROPRIATION ACT. 1986-87

(Assented to February 2, 1987)

Whereas it appears by message from the Commissioner and in the estimates accompanying the message that, in addition to the sums previously appropriated, the sums not appearing in parenthesis in Schedule "A" of this Act are required for the purpose of defraying certain expenses of the public service of the Yukon and for related purposes for the period of 12 months ending in March 31, 1987:

The Commissioner of the Yukon Territory, by and with the advice and consent of the Legislative Assembly, enacts as follows:

- This Act may be cited as the Fourth Appropriation Act, 1986-87.
- 2. (1) In addition to the sum of \$80,935,000 provided for in the First Appropriation Act, 1986-87 and the sum of \$173,940,000 provided for in the Second Appropriation Act, 1986-87 and the sum of \$21,359,000 provided for in the Third Appropriation Act, 1986-87, from and out of the Yukon Consolidated Revenue Fund there may be paid and applied a sum not exceeding in the whole \$7,247,000 for defraying the several charges and expenses of the public service of the Yukon payable in the period of 12 months ending on March 31, 1987, as set forth in Schedule "A" of this Act and that sum shall not be paid or applied except in accordance with Schedule "A", the Financial Administration Act and, subject to that Act, the estimates accompanying the message from the Commissioner.
  - (2) The sums previously appropriated to a vote or item that is listed in Schedule "A" and that has a sum appearing in parenthesis after it are reduced by the amount of the sum appearing in parenthesis.
  - (3) The due application of all montes paid or applied pursuant to section 2 shall be accounted for.

# FOURTH APPROPRIATION ACT, 1986-87

# SCHEDULE A

		\$ (Dollars in OOO's)		
		Voted	This	Total Voted
		to	Appro-	(Current Spend-
Ope	ration and Maintenance Votes	Date	priation	ing Authority)
<u> </u>		<u> </u>	<u> Filippini</u>	
01	Yukon Legislative Assembly	1,526	-	1,526
02	Executive Council Office	4,080	-	4,080
09	Community and Transportation Services	41,661	-	41,661
07	Economic Development: Mines and			
	Small Business	4,095	-	4,095
03	Education	38,704	1,166	
12	Finance	3,086	-	3,086
16	Government Services	11,781	-	11,781
15 08	Health and Human Resources Justice	36,900	-	36,900 15,731
10	Public Service Commission	15,731 3,115	_	3,115
	Renewable Resources	5,819	552	6,371
13	Tourism	4,359	-	4,359
ii	Women's Directorate	208	-	208
	Loan Capital	1,000	-	1,000
	Loan Amortization	1,875	-	1,875
	Subtotal Operation and Maintenance	173,940	1,718	175,658
			=======	
Cap	ital Votes			
02	Executive Council Office	21	_	21
09	Community and Transportation Services	49,942	3,000	
07	Economic Development: Mines and	•	•	•
	Small Business	11,617	-	11,617
03	Education	20,328	510	
	Government Services	6,394	281	
15	Health and Human Resources	1,970	52	
08	Justice	5,351	548	<b>-</b>
14	Renewable Resources	1,705	439	
13	Tourism	<u>4,966</u>	<u>699</u>	5,665
	Subtotal Capital	102,294	5,529	107,823
	·	======	=====	
	Total	276,234	7,247	283,481
	<del></del>	======	=====	

1

# STATUTES OF YUKON 1987, Chapter 3

#### **HUMAN RIGHTS ACT**

(Assented to February 12, 1987)

Recognizing that respect for human rights is a fundamental part of Canada's heritage.

That Canada is a party to the United Nations' Universal Declaration of Human Rights and other international undertakings having as their object the improvement of human rights in Canada and other nations of the world.

That the Yukon Government has a responsibility to encourage an understanding and recognition of human rights that is consistent with Canada's international undertakings and with the initiatives taken by Canada and the provinces, and

That it is just and consistent with Canada's international undertakings to recognize and make special provision for the unique needs and cultural heritage of the aboriginal peoples of the Yukon,

The Commissioner of the Yukon Territory, by and with the advice and consent of the Legislative Assembly, enacts as follows:

#### **Objects**

- 1. (1) The objects of this Act are
  - (a) to further in the Yukon the public policy that every individual is free and equal in dignity and rights,
  - (b) to discourage and eliminate discrimination.
  - (c) to promote recognition of the inherent dignity and worth and of the equal and inalienable rights of all members of the human family, these being principles underlying the Canadian Charter of Rights and Freedoms and the Universal Declaration of Human Rights and other solemn undertakings, international and national, which Canada honours.
  - (2) This Act does not affect rights pertaining to aboriginal peoples established by the Constitution of Canada or by a land claims agreement.

#### Multi-cultural heritage

 This Act shall be interpreted in a manner consistent with the preservation and enhancement of the multi-cultural heritage of the residents of the Yukon.

# PART 1 BILL OF RIGHTS

#### Right to freedom of religion and of conscience

 Every individual and every group shall, in accordance with the law, enjoy the right to freedom of religion, conscience, opinion, and belief.

### Right to freedom of expression

4. Every individual and every group shall, in accordance with the law, enjoy the right to freedom of expression, including freedom of the press and other media of communication.

#### Right to freedom of assembly and of association

5. Every individual and every group shall, in accordance with the law, enjoy the right to peaceable assembly with others and the right to form with others associations of any character.

### Right to enjoyment and disposition of property

5.1 Every individual has a right to the peaceful enjoyment and free disposition of his or her property, except to the extent provided by law, and no one shall be deprived of that right except with just compensation.

# PART 2 DISCRIMINATORY PRACTICES

#### Prohibited grounds

- 6. It is discrimination to treat any individual or group unfavourably on any of the following grounds:
  - (a) ancestry, including colour and race,
  - (b) national origin,
  - (c) ethnic or linguistic background or origin,
  - (d) religion or creed, or religious belief, religious association, or religious activity.
  - (e) age,
  - (f) sex, including pregnancy, and pregnancy related conditions,
  - (g) sexual orientation,
  - (h) physical or mental disability,
  - (i) criminal charges or criminal record,
  - (j) political belief, political association or political activity.
  - (k) marital or family status,
  - (1) actual or presumed association with other individuals or groups whose identity or membership is determined by any of the grounds listed in paragraphs (a) to (k).

#### Duty to provide for special needs

- 7. (1) Every person has a responsibility to make reasonable provisions in connection with employment, accommodations, and services for the special needs of others where those special needs arise from physical disability, but this duty does not exist where making the provisions would result in undue hardship.
  - (2) For the purposes of subsection (1) "undue hardship" shall be determined by balancing the advantages and disadvantages of the provisions by reference to factors such as
    - (i) safety,
    - (ii) disruption to the public,
    - (iii)effect on contractual obligations.
    - (iv) financial cost,
    - (v) business efficiency.
  - (3) This Act does not apply to structures which at the commencement of this Act were existing and complied with the applicable requirements of the <u>Building Standards Act</u> and regulations under that Act.

#### Prohibited discrimination

- 8. No person shall discriminate
  - (a) when offering or providing services, goods, or facilities to the public.
  - (b) in connection with any aspect of employment or application for employment.
  - (c) in connection with any aspect of membership in or representation by any trade union, trade association, occupational association, or professional association,
  - (d) in connection with any aspect of the occupancy, possession, lease, or sale of property offered to the public.
  - (e) in the negotiation or performance of any contract that is offered to or for which offers are invited from the public.

#### Reasonable cause

- 9. It is not discrimination if treatment is based on
  - (a) reasonable requirements or qualifications for the employment,
  - (b) on a criminal record or criminal charges relevant to the employment.
  - (c) sex, so as to respect the privacy of the people to whom accommodations or a service or facility is offered, or
  - (d) other factors establishing reasonable cause for the discrimination.

# **Exemptions**

- 10. (1) It is not discrimination for a religious, charitable, educational, social, cultural, or athletic organization to give preference to its members or to people the organization exists to serve.
  - (2) It is not discrimination for individuals to give preference to members of their family.
  - (3) Section 8 does not apply to
    - (a) the employment of a person to provide services in a private home or in any exclusively religious, charitable, educational, social, cultural or athletic organization.
    - (b) the choice by an occupant of a private home of a boarder or tenant to occupy part of the home.

#### Systemic discrimination

11. Any conduct that results in discrimination is discrimination.

#### Special programs and affirmative action

- 12. (1) Special programs and affirmative action programs are not discrimination.
  - (2) Special programs are programs designed to prevent disadvantages that are likely to be suffered by any group identified by reference to a prohibited ground of discrimination.
  - (3) Affirmative action programs are programs designed to reduce disadvantages resulting from discrimination suffered by a group identified by reference to a prohibited ground of discrimination.

#### Harassment

- 13. (1) No person shall
  - (a) harass any individual or group by reference to a prohibited ground of discrimination,
  - (b) retaliate or threaten to retaliate against an individual who objects to the harassment.
  - (2) In subsection (1), "harass" means to engage in a course of vexatious conduct or to make a demand or a sexual solicitation or advance that one knows or ought reasonably to know is unwelcome.

### Equal pay for work of equal value

- 14. (1) This section applies only to the Government of the Yukon and municipalities and their corporations, boards, and commissions.
  - (2) It is discrimination for an employer to establish or maintain a difference in wages between employees who are performing work of equal value, if the difference is based on any of the prohibited grounds of discrimination.

- (3) In assessing the value of the work performed the criterion to be applied is the composite of the skill, effort, and responsibility required and the working conditions.
- (4) For the purposes of this section, "wages" means any form of payment for work performed by an individual, and includes salaries, commissions, vacation pay, dismissal wages, bonuses, value for board, rent, housing, lodging, payments in kind, employer contributions to pension funds or plans, employer contributions to long-term disability plans, employer contributions to any forms of health insurance plans, and any other advantage received directly or indirectly from the individual's employer.
- (5) An employer shall not reduce wages in order to comply with this section.

# PART 3 YUKON HUMAN RIGHTS COMMISSION

#### **Human Rights Commission**

- 15. (1) There shall be a Yukon Human Rights Commission accountable to the Legislature and the commission shall
  - (a) promote the principle that every individual is free and equal in dignity and rights.
  - (b) promote the principle that cultural diversity is a fundamental human value and a basic human right,
  - (c) promote education and research designed to eliminate discrimination,
  - (d) promote a settlement of complaints in accordance with the objects of this Act by agreement of all parties,
  - (e) cause complaints which are not settled by agreement to be adjudicated, and at the adjudication adopt the position which in the opinion of the commission best promotes the objects of this Act.
  - (2) The commission shall conduct education and research on the principle of equal pay for work of equal value in the private sector.

#### Appointment of commission

- 16. (1) The commission shall consist of a minimum of three and a maximum of five members who shall be appointed for a term of three years by the Legislature.
  - (2) A member of the commission may only be removed from office by resolution of the Legislature.

#### Annual report of commission

17. In each fiscal year the commission shall deliver to the Speaker of the Legislature a report about the administration of this Act. The report shall not publish any names of individuals or businesses in which a complaint was dismissed or has not yet been dealt with.

#### Director of Human Rights

- 18. There shall be a Director of Human Rights responsible to the commission for
  - (a) ensuring that complaints are dealt with in accordance with this Act.
  - (b) carrying out, in accordance with the commission's policies and directives, the administration of this Act.

# PART 4 COMPLAINTS

### Complaints

- 19. (1) Any person believing that there has been a contravention of this Act against him or her may complain to the commission who shall investigate the complaint unless
  - (a) the complaint is beyond the jurisdiction of the commission.
  - (b) the complaint is frivolous or vexatious, or
  - (c) the victim of the contravention asks that the investigation be stopped.
  - (2) A complaint must be made within six months of the alleged contravention.

#### Disposition of complaints by commission

- 20. After investigation, the commission shall
  - (a) dismiss the complaint, or
  - (b) try to settle the complaint on terms agreed to by the parties, or
  - (c) ask a board of adjudication to decide the complaint.

#### Panel of adjudicators

- 21. (1) There shall be a panel of adjudicators to be called upon as required to adjudicate complaints.
  - (2) The panel of adjudicators shall consist of not less than three members, one of whom shall be designated Chief Adjudicator, who shall be appointed for a term of three years by the Legislature.
  - (3) A member of the panel may only be removed from the panel by resolution of the Legislature.
  - (4) When the commission asks that a complaint be adjudicated, the Chief Adjudicator shall establish a board of adjudication and determine its membership.

### Fundamental justice

22. The board of adjudication shall conduct its hearings in accordance with the principles of fundamental justice and may exercise all the powers of a board appointed under the Public Inquiries Act.

### Where complaint established

- 23. (1) If the complaint is proven on the balance of probabilities the board may order the party who discriminated to
  - (a) stop the discrimination,
  - (b) rectify any condition that causes the discrimination,
  - (c) pay damages for any financial loss suffered as a result of the discrimination,
  - (d) pay damages for injury to dignity, feelings, or self-respect,
  - (e) pay exemplary damages if the contravention was done maliciously,
  - (f) pay costs.

- (2) No order made under this section shall contain a term
  - (a) requiring an individual to be removed from employment if the individual accepted the position in good faith, or
  - (b) requiring an occupant of a dwelling to leave if the occupant obtained possession of the dwelling in good faith.

#### Costs of adjudication

- 24. If the board of adjudication concludes that the complaint was frivolous or vexatious or that the proceedings have been frivolously or vexatiously prolonged the board may order the commission to pay to the respondent
  - (a) part or all of the respondent's costs of defending against the complaint, and
  - (b) damages for injury to the respondent's reputation.
- 24.1 If the board of adjudication concludes that the complaint was based on information that the complainant knew to be false the board may order the complainant to pay to the respondent
  - (a) part or all of the respondent's costs of defending against the complaint, and
  - (b) damages for injury to the respondent's reputation.

#### Enforcement of adjudication orders by court

25. An order of the board of adjudication may be filed in the Supreme Court and it shall then be enforceable as an order of the Supreme Court.

#### Appeals

- 26. (1) Any party to a proceeding before a board of adjudication may appeal final decisions of the board to the Supreme Court by filing a notice of appeal with the court within thirty days after the order of the board of adjudication is pronounced.
  - (2) The procedure for the appeal shall be the same as for an appeal in the Court of Appeal.
  - (3) An appeal under this section may be made on questions of law and the court may affirm or set aside the order of the board and direct the board to conduct a new hearing.

(4) The only proceeding that may be taken to set aside or vary decisions of the board is the right of appeal given by this Act.

# PART 5 OFFENCES

#### Obstruction

27. Every person who willfully obstructs or interferes with any person acting under the authority of this Act commits an offence.

#### Retaliation

28. It is an offence for a person to retaliate or threaten to retaliate against any other person on the ground that the other person has done or proposes to do anything this Act permits or obliges them to do.

#### False reports

28.1 Any person who reports to the commission information that the person knows to be false commits an offence.

#### **Penalties**

29. A person who commits an offence under section 27, 28, or 28.1 is liable on summary conviction to a fine of up to \$2,000.

# PART 6 MISCELLANEOUS

#### Interim injunction

30. If a complaint has been made to the commission or a prosecution has been commenced, a judge of the Supreme Court may grant a temporary injunction restraining any conduct alleged to be in contravention of this Act, or requiring the respondent or accused to comply with this Act until the complaint proceedings or prosecution have been completed.

#### **Disclosure**

- 31. (1) If a judge of the Supreme Court is satisfied that a request for disclosure of a document has been refused and that there are reasonable grounds to believe that the document is relevant to the investigation of a complaint, the judge may order the person who has the document to produce it for inspection and copying by the commission's investigator.
  - (2) Personal information under the control of the commission shall not, without the consent of the individual to whom it relates, be disclosed or be used except
    - (a) in proceedings under this Act or for any other purpose for which the commission obtained the information or a purpose consistent with that purpose, or
    - (b) in accordance with an order or rules of procedure of a court or other adjudictive tribunal.

#### Acts of employees

32. Employers are responsible for the discriminatory conduct of their employees unless it is established that the employer did not consent to the conduct and took care to prevent the conduct or, after learning of the conduct, tried to rectify the situation.

#### **Regulations**

- 33. After consultation with the commission, the Commissioner in Executive Council may make regulations
  - (a) establishing the procedures of the commission and boards of adjudication,
  - (b) regarding the hiring of people by the commission and the terms and conditions of their employment or service,
  - (c) prescribing remuneration and expenses that may be paid.

#### Interpretation

#### 34. In this Act

"physical disability" means any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and includes epilepsy, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, and physical reliance on a seeing eye dog or on a wheelchair or other remedial appliance or device;

"mental disability" means any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, or learning disability;

"person" includes a partnership, an unincorporated organization or association, and a trade union.

"sexual orientation" means heterosexual, homosexual or bi-sexual and refers only to consenting adults acting within the law.

#### Act binds Government of the Yukon Territory

35. This Act is binding upon the Government of the Yukon Territory and its corporations, boards, and commissions.

# **Paramountcy**

36. This Act supersedes every other Act, whether enacted before or after this Act, unless it is expressly declared by the other Act that it shall supersede this Act.

#### Fair Practices Act

37. The Fair Practices Act is repealed.

# Coming into force

- 38. (1) Subject to subsection (2), this Act comes into force on July 1, 1987 or an earlier date to be fixed by the Commissioner in Executive Council.
  - $^{\cdot}$  (2) In respect of municipalities and their corporations, boards, and commissions, section 14 comes into force on December 10, 1987.

- 22 -

# STATUTES OF YUKON 1987. Chapter 4

# AN ACT TO AMEND THE MEDICAL PROFESSION ACT

(Assented to February 12, 1987)

The Commissioner of the Yukon Territory, by and with the advice and consent of the Legislative Assembly, enacts as follows:

- 1. This Act amends the Medical Profession Act.
- 2. The following sections are added after section 24:

### Appointment of committee by council

- "24.1(1) Notwithstanding any other provisions of this Act, where the council determines that it has a conflict of interest, or, for any other reason, it is of the opinion that it should not act in any investigation, inquiry or proceeding under this Act, the council may appoint a committee consisting of not less than three members of the medical profession, who have been recommended for appointment by a College of Physicians and Surgeons from another province, to act in its place and stead and shall refer the investigation, inquiry or proceeding to the committee.
  - (2) A committee appointed under subsection (1) shall appoint one of its members as the chairperson.
  - (3) A majority of the members of a committee appointed under subsection (1) constitutes a quorum.

#### Powers and duties of committee

24.2 (1) Subject to subsection (2), a committee appointed under subsection 24.1(1) shall have the full power, authority and duties of the council under this Act.

- (2) The powers, authority and duties of the committee appointed under subsection 24.1(1) shall be restricted to the matter of the investigation, inquiry or proceeding referred to it by the council.
- (3) The persons appointed to the committee shall hold office until such time as the investigation, inquiry or proceeding referred to it has been dealt with in its entirety.
- (4) Any order or decision of a committee appointed under subsection 24.1(1) shall be deemed to be an order or decision of the council for the purposes of this Act.
- (5) Subsection 6(2) does not apply to a committee appointed under this section."

# STATUTES OF YUKON 1987, Chapter 5

# AN ACT TO AMEND THE PUBLIC SERVICE COMMISSION ACT

(Assented to February 2, 1987)

The Commissioner of the Yukon Territory, by and with the advice and consent of the Legislative Assembly, enacts as follows:

- This Act amends the Public Service Commission Act.
- The title of the Act is amended by striking out the word "Commission".
- 3. (1) Subsection 2(1) is amended by striking out the definitions of "casual employee", "class", "class of positions", "established position", "establishment" and "single position class".
  - (2) The following definitions are added to subsection 2(1):
    - "'auxiliary employee' means an employee
    - (a) who has one work assignment, whether full or part-time, that normally reoccurs, depending upon the call of the employer, on a seasonal basis each year for a continuous period of time of more than three but less than ten consecutive months, or
    - (b) who normally has one or more work assignments each year, whether full or part-time, determined from time to time on an hourly, daily or other periodic basis by the call of the employer;

'casual' means a person engaged on a casual or temporary basis

- (a) whose employment, whether full or part-time, does not reoccur on a seasonal basis from year to year and is not intended to exceed six consecutive and continuous months, or
- (b) whose employment may reoccur on a seasonal basis from year to year and, if full time, is not intended to exceed three consecutive or continuous months or, if part time, is not intended to exceed 500 hours in any 12 month period:".

'class' means a class as set out in a classification plan pursuant to section 20;

'group' means a group as set out in a classification plan pursuant to section 20;

'level' means a level as set out in a classification plan pursuant to section 20:

'merit' means the knowledge, abilities and suitability of a person in relation to the requirements for a position or for employment as a casual, as the case may be;

'working days' means days on which the offices of the Government of the Yukon normally are open;".

(3) The following is substituted for the definition of "department or branch" in subsection 2(1):

"'department' means a department in the public service and includes an agency, branch, commission, board or corporation of the Government of Yukon;".

- (4) The definition of "deputy head" in subsection 2(1) is amended by striking out the expression "or branch" and by substituting the word "regulations" for the word "Schedule".
- (5) The following is substituted for the definition of "employee" in subsection 2(1):

"'employee' means a person appointed to a position in the public service, and includes an auxiliary employee but does not include a casual;".

- (6) The definition of "lay-off" in subsection 2(1) is amended by adding to the end of it the expression "but does not include an auxiliary employee during the period when the employee has no work assignment or an auxiliary employee who has received notice of the termination of the employee's work assignment".
- (7) The following is substituted for the definition of "position" in subsection 2(1):

"'position' means a position established by the commission as a position in the public service;".

- (8) The definition of "public service" in subsection 2(1) is amended by striking out the expression "or branches".
- (9) In the definition of "unit" in subsection 2(1), the expression "public service commissioner" is substituted for the word "Commissioner".
- (1) Paragraph 9(1)(g) is amended by striking out the expression "or branch".
  - (2) Paragraph 9(1)(i) is amended by striking out the word "a", and by substituting the word "systems" for the word "system."
  - (3) Subsection 9(3) is amended by striking out the expression "branch or division".
- 5. Subsection 10(2) is amended by striking out the expressions "branch or division" and "or branch".
- Section 14 is repealed.
- Section 16 is amended by striking out the expression "or branch".
- Section 19 is amended by striking out the expression "or branch".
- 9. (1) In section 20, the expression "one or more classification plans for" is substituted for the expression "a Classification Plan for all".
  - (2) The following subsections are added to section 20:
    - "(2) Every classification plan shall establish one or more systems of classes, groups and levels to which positions may be allocated.
    - (3) Every classification plan shall set out
      - (a) the evaluation techniques to be used in classifying positions, and
      - (b) the classification standards or specifications to be applied in classifying positions.
    - (4) The commission may establish one or more classification plans respecting casuals, and subsections (2) and (3), and sections 23 to 34, with the necessary changes, apply to such plans.

- (5) Except as expressly provided by subsection (4), nothing in this section renders any other provision of this Act applicable to casuals."
- 10. Sections 21 and 22 are repealed.
- 11. The following is substituted for section 23:

#### Creation of and changes to classes, groups and levels

- "23. The commission may create, divide, combine, alter or abolish classes, groups and levels."
- 12. In section 24, the expression "classes, groups and levels" is substituted for the word "classes".
- 13. In section 25, the expression "in whole or in part" is substituted for the expression "or any class or any positions within a class series", and by substituting the expression "to any class, group and level" for the expression "to any class".
- 14. The following new section is added immediately after section 26:

#### Effective date of classification or reclassification

- "26.1 Except as otherwise provided by this Act, the classification or reclassification of a position takes effect on a date determined in accordance with regulations."
- 15. In section 26, the expression "class or group" is substituted for the word "class".
- 16. Sections 27 and 28 are repealed.
- 17. The following is substituted for section 29:

#### Classification techniques and standards

- "29. The evaluation techniques to be used in classifying positions, and the classification standards and specifications to be applied in classifying positions, shall be determined solely by the commission."
- 18. Sections 30 to 32 are repealed.

- 19. In section 33, the expression "in his or her department" is substituted for the expression "under his direction".
- 20. In section 34, the expression "in his or her department" is substituted for the expression "on his establishment", and the expression "for his or her department" is substituted for the expression "for his establishment".
- 21. The following new subsection is added to section 35:
  - "(2) A review under subsection (1) shall be discontinued if the employee leaves the employ of the government for a reason other than death or lay-off prior to completion of the review."
- 22. In section 36, the word "department" is substituted for the word "establishment".
- 23. (1) In subsection 37(1), the expression "section 35 or 36" is substituted for the expression "sections 35 or 36".
  - (2) The following new subsections are added to section 37:
    - "(2) Where a change in the classification of a position results from a review under section 35 or 36, the change shall be deemed to have taken effect on the date on which the request for review was received by the commission.
    - (3) Notwithstanding subsection (2), an employee is not entitled to a retroactive or other increase of pay or other benefits in respect of the reclassification of a position under this section unless
      - (a) the employee held the position at the time when the review was requested under section 35 or 36 and
        - (i) the employee continued to hold the position at the time of the completion of the review,
        - (ii) the employee died, was laid off or was transferred by the employer to another position prior to the completion of the review, or

- (b) the employee was appointed to the position after the time when the review was requested at a rate of pay lower than the minimum rate of pay for the position as reclassified, and the employee continued to hold the position at the time of the completion of the review.
- (4) The rate of pay of an employee to whom paragraph (3)(b) applies shall not, as a result of the reclassification of the position, be increased beyond the minimum rate of pay for the position as reclassified, whether or not the appointment of the person to the position was made under subsection 75(1).
- (5) The rate of pay of an employee shall not be reduced as the result of a reclassification of the employee's position under this section.
- (6) The salary range of an employee may be changed as the result of a reclassification of the employee's position under this section."
- 24. Section 38 is amended by substituting the expression "in respect of substantially the same matter" for the expression "within six months from the date of the decision".
- 25. In section 40, the expression "subject to the regulations" is added immediately after the word "appointed".
- 26. In section 42, the expression "in his or her department" is substituted for the expression "on his establishment".
- 27. Section 43 is amended by adding the expression "or in respect of a casual" to the end of the section.
- 28. In section 44, the expression "as may be prescribed" is substituted for the expression "as may be required to enable the appeal to be determined".
- 29. In section 45, the expression "class, group and level" is substituted for the word "class".
- 30. In section 46, the expression "20 working days after notice of the classification decision is received by the employee" is substituted for the expression "fifteen working days after the receipt of the classification decision by the Deputy Head".

- 31. In section 50, the expression "subject to the regulations" is added immediately after the word "right".
- 32. In section 56, the expression "class, group or level" is substituted for the word "class".
- 33. The following is substituted for section 57:

#### Restriction of powers of the board

- \*57. The Classification Appeal Board shall not have the authority
- (a) to apply evaluation techniques different from those established under paragraph 20(3)(a),
- (b) to apply classification standards or specifications different from those established under paragraph 20(3)(b).
- (c) to make decisions or recommendations regarding rates of pay, other benefits or terms or conditions of employment applicable to any class, group or level, or
- (d) to create, divide, combine, alter or abolish any class, group or level."
- 34. The following is substituted for section 58:

#### Limitation

- "58. The Classification Appeal Board shall not conduct a second or further appeal in respect of substantially the same matter."
- 35. (1) In subsection 59(2), the expression "an advisor for the bargaining agent" is substituted for the expression "an advisor".
  - (2) The following subsections are added to section 59:
    - "(4) Where an advisor is appointed for a bargaining agent under subsection (2), the Public Service Commissioner may appoint an additional advisor to act as the commission's advisor.
    - (5) This section does not apply to an appeal of a classification decision with respect to a position allocated to a class excluded from a collective agreement."

36. The following is substituted for section 60:

#### Employee representative

- "60. Where an appeal to the Classification Appeal Board is initiated by an employee, the employee may appoint a representative to appear before the board and make representations on behalf of the employee."
- 37. Section 63 is amended by adding the expression "subject to the regulations" immediately after the word "scheduled".
- 38. The following is substituted for section 64:

#### Result of Appeal

- "64.(1) Where a change in the classification of a position results from an appeal to the board, the change shall be deemed to have taken effect on the date on which the request for the review of the classification of the position was received by the commission under section 35 or 36.
  - (2) Notwithstanding subsection (1), an employee is not entitled to a retroactive or other increase of pay or other benefits in respect of the reclassification of a position under this section unless
    - (a) the employee held the position at the time when the review of the classification of the position was requested under section 35 or 36 and
      - the employee continued to hold the position at the time of the completion of the appeal, or
      - (ii) the employee died, was laid off or was transferred by the employer to another position prior to the completion of the appeal, or
    - (b) the employee was appointed to the position after the time when the review of the classification of the position was requested under section 35 or 36 at a rate of pay lower than the minimum rate of pay for the position as reclassified on appeal, and the employee continued to hold the position at the time of the completion of the appeal.

- (3) The rate of pay of an employee to whom paragraph (2)(b) applies shall not, as a result of the reclassification of the position, be increased beyond the minimum rate of pay for the position as reclassified, whether or not the appointment of the person to the position was made under subsection 75(1).
- (4) The rate of pay of an employee to whom paragraph (2)(a) applies shall not, as the result of a reclassification of the employee's position under this section, be reduced below the rate paid to the employee at the time when the review of the classification of the position was requested under section 35 or 36.
- (5) The rate of pay of an employee to whom paragraph (2)(b) applies, shall not, as the result of a reclassification of the employee's position under this section, be reduced below the rate of pay at which the employee was appointed to the position.
- (6) The salary range of an employee may be changed as the result of a reclassification of the employee's position under this section."
- Section 65 is repealed.
- 40. In section 66, the expression "class, group or level" is substituted for the expression "classes of employment".
- 41. In section 67, the expression "class, group or level" is substituted for the expression "classes of employment", and the expression "classes, groups and levels" is substituted for the word "classes".
- 42. In sections 68 and 69, the expression "classes, groups or levels" is substituted for the expression "classes of employment".
- 43. In section 70, the expression "deputy head" is substituted for the expression "class of employment listed in the Schedule".
- 44. In section 71, the expression "classes, groups and levels" is substituted for the word "classes".

- 45. In section 72, the expression "classes, groups and levels" is substituted for the expression "classes of employment".
- 46. The following subsections are added to section 75:
  - "(2) Notwithstanding section 74, the public service commissioner may, in accordance with the regulations, make an appointment to a position in a class at a rate of pay lower than the minimum rate for the class where the person appointed does not have all the required qualifications for the position.
  - (3) Where an appointment is made under subsection (2), the person appointed to the position may be dismissed from the position not later than three years after the date of the appointment unless the person acquires all the required qualifications for the position during that time."
- 47. The following is substituted for section 79:

#### Information to be supplied to the commission

- "79. Every deputy head shall, on the request of the commission, provide such information as the commission may require regarding employees and positions in the department of the deputy head, including casuals."
- 48. Section 80 is amended by substituting the word "positions" for the word "employees", and by striking out the expression "branch or division".
- 49. Subsection 81(2) is repealed.
- 50. Section 82 is amended by striking out the expression "branch or division".
- 51. The following is substituted for section 83:

#### Limits to staff establishment

"83.(1) The establishment of a department shall not, except with the approval of the management board under the Financial Administration Act, exceed the establishment approved by the management board for the department.

- (2) Auxiliary positions shall not be included in the staff establishment of a department for the purposes of subsection (1).
- 52. Section 84 is amended by striking out the expesssion "branch or division".
- 53. In section 85, the word "commission" is substituted for the word "Commissioner".
- 54. In section 86, the expression "a person" is substituted for the expression "an employee", and the expression "subsection 85(2)" is substituted for the expression "section 85(2)".
- 55. In sections 87 to 89, the word "casual" is substituted for the expression "casual employee".
- 56. Sections 90 to 95 are repealed.
- 57. (1) The following is substituted for the heading immediately preceding section 96: "Appointment and Termination".
  - (2) Section 96 is amended by adding the expression "Subject to section 11" to the beginning, and by striking out the expression "branch or division".
- 58. Section 99 is amended by striking out the expression "or class".
- 59. The following section is added immediately after section 100:

### Affirmative action

- "100.1 Notwithstanding any other provision of this Act, the commission may implement programs that have as their object the amelioration of conditions of disadvantaged individuals or groups, and may for that purpose employ such individuals or members of such groups as the commission considers appropriate."
- 60. In section 101, the word "casuals" is substituted for the expression "persons to perform work of a casual or temporary nature".

- 61. In section 105, the word "occupations" is substituted for the expression "classes of positions", and the expression "those occupations" is substituted for the expression "those positions".
- 62. Section 108 is amended
  - (a) by substituting the word "in the department of the deputy head" for the expression "on the establishment of his department or branch", and
  - (b) by substituting the expression "within a division of the public service defined by the commission" for the expression "within the department, branch or division".
- 63. Section 110 is amended by striking out the expressions "branch or division" and "branches or divisions".
- 64. Paragraph 111(a) is amended by striking out the expression "of positions".
- 65. The following subsections are added to section 116:
  - "(2) Notwithstanding subsection (1), the probationary period for an auxiliary employee is 1000 working hours, exclusive of overtime hours.
  - (3) Where a person is transferred or demoted to a position, the commission shall determine whether the person shall serve a probationary period having regard to the circumstances surrounding the transfer or demotion and such other factors as the commission considers relevant."
- 66. (1) Section 117 is amended by substituting the expression "other than an auxiliary employee, for further periods" for the expression "for a further period".
  - (2) The following subsection is added to section 117:
    - "(2) A deputy head may extend the probationary period of an auxiliary employee for a further period of 1000 working hours, exclusive of overtime hours."
- 67. The following subsection is added to section 120:
  - "(2) Subsection (1) does not apply to auxiliary employees."
- 68. (1) Section 122 is amended by striking out the expression "or temporary" and the word "permanent".

- (2) The following subsection is added to section 122:
  - "(2) Service as an auxiliary employee shall not be considered as part of a probationary period in respect of an appointment to a position other than an auxiliary position."
- 69. Sections 123 to 125 are repealed.
- 70. In section 128, the expresson "evidence satisfactory" is substituted for the expression "satisfactory evidence".
- 71. In subsection 131(3), the word "adjudication" is substituted for the expression "the adjudication".
- 72. In section 132, the expression "the last working day of the employee" is substituted for the expression "his last working day".
- 73. (1) In subsection 133(1), the expression "five consecutive working days of the employee" is substituted for the expression "a period of five consecutive working days".
  - (2) The following subsections are added to section 133:
    - "(4) The position of an auxiliary employee may also be declared to have been abandoned under subsection (1) where the employee has failed to comply with three consecutive calls by the employer to accept a work assignment.
    - (5) Only calls given to the employee in accordance with subsection 192(3) shall be effective for the purposes of subsection (4).
- 74. In section 134, the expression "position at the same level performing similar functions and requiring similar qualifications" is substituted for the expression "in the same class or to an alternative work location".
- 75. (1) The following is substituted for subsection 136(1):
  - "136.(1) Subject to the regulations, where operational requirements so necessitate, a Deputy Head may, at any time, with the prior approval of the commission, transfer an employee from one position to another position at the same level.

performing similar functions and requiring similar qualifications in the department of the deputy head.

- (a) within the same work location, or
- (b) between different work locations."
- (2) The following subsections are added to section 136:
  - "(1.1) A transfer under subsection (1) shall be effected by the giving of a written notice to the employee in accordance with section 192, specifying the effective date of the transfer.
  - (1.2) A copy of the notice under subsection (1.1) shall be sent to the commission.
  - (10) Subsections (3) to (9) do not apply to auxiliary employees.
  - (11) An employee shall not be required to serve a probationary period solely as a result of a transfer under this section.
- 76. The following is substituted for section 137:

## Transfer by the public service commissioner

- \*137.(1) The public service commissioner may transfer an employee from one position to another at the same level performing similar functions and requiring similar qualifications within the same department
  - (a) within the same work location, or
  - (b) between different work locations.
  - (2) A transfer under subsection (1) shall not be made except with the consent of the employee and the deputy head of the department within which the transfer is made.
  - (3) The public service commissioner may transfer an employee from one position to another at the same level performing similar functions and requiring similar qualifications between departments
    - (a) within the same work location, or
    - (b) between different work locations.

- (4) A transfer under subsection (3) shall not be made except with the consent of the employee and the Deputy Head of the department to which the transfer is made."
- 77. The following subsection is added to section 147:
  - "(2) Subsection (1) does not apply to an employee who is not a member of a bargaining unit under the Public Service Staff Relations Act."
- 78. The following subsection is added to section 153:
  - "(3) Subsection (1) does not apply to an employee who is not a member of a bargaining unit under the Public Service Staff Relations Act."
- 79. The following is substituted for section 162:

### Leave for employees seeking election

- "162.(1) An employee who proposes to become a candidate in an election shall apply in writing to his or her deputy head to be placed on leave without pay, commencing
  - (a) upon the issuance of the writ of election, where the person is nominated by a political party prior to the issuance of the writ,
  - (b) upon the nomination of the person by a political party, where the person is nominated after the issuance of the writ of election but before being nominated pursuant to the Canada Elections Act or the Elections Act (Yukon) to be a candidate in an election,
  - (c) upon being nominated pursuant to the Canada Elections Act or the Elections Act (Yukon) to be a candidate in an election, where paragraphs (a) and (b) do not apply.
  - (2) Leave without pay under this section shall terminate on the earlier of
    - (a) the official declaration of the result of the election, or
    - (b) the withdrawal of the candidate pursuant to the Canada Elections Act or the Elections Act (Yukon)."

- 80. In section 165, the expression "has been placed on leave without pay under section 162" is substituted for the expression "has been granted leave of absence without pay to seek nomination as a candidate or to be a candidate as a member of the House of Commons or the Council of the Yukon Territory".
- 81. (1) Section 166 is amended by striking out the expression "or by-election" and by adding the expression "whether or not a writ for the holding of the election has been issued" to the end of the section.
  - (2) The following new definition is added to section 166: "'election' includes a by-election:".
- 82. (1) Subsection 167(1) is amended by substituting the expression "Except as otherwise provided by this Act" for the expression "Except as provided by section 168" and by striking out the expression "or by-election".
  - (2) Subsection 167(2) is amended by substituting the expression "Except as otherwise provided by this Act" for the expression "Except as provided by section 168" and by striking out the expression "or by-election".
  - (3) The following subsection is added to section 167:
    - "(3) This section applies whether or not a writ for the holding of an election has been issued."
- 83. The following subsections are added to section 168:
  - "(3) No employee shall so conduct himself or herself during his or her working hours so as to promote or oppose a political party, or a candidate or person who is seeking nomination as a candidate in an election, whether or not a writ for the holding of the election has been issued."
- 84. Subsections 169(1) and (3) are amended by striking out the expression "or by-election".
- 85. (1) Subsection 169(1) is amended by adding the expression "whether or not a writ for the holding of an election has been issued" to the end of the subsection.
  - (2) Subsection 169(2) is amended by adding the expression "open to the general public" to the end of the subsection.

- 86. The following subsection is added to section 171:
  - "(2) Subsection (1) does not apply to an employee who is not a member of a bargaining unit under the Public Service Staff Relations Act."
- 87. Section 172 is amended by striking out the expression "branch or division".
- 88. In section 173, the word "rate" is substituted for the word "rates".
- 89. In section 174, the expression "after receiving notice of lay-off under section 192" is substituted for the expression "after he was laid off".
- 90. In section 175, the word "rate" is substituted for the word "rates".
- 91. In section 176, the expression "after receiving notice of lay-off under section 192" is substituted for the expression "from the date on which he became a lay-off", and by substituting the word "rate" for the word "rates".
- 92. (1) In section 177, the expression "Subject to subsections (2) and (3), where two or more employees, other than auxiliary employees, in positions in the same group, at the same level, performing similar functions and requiring similar qualifications in the same unit are to be laid off, or where one such employee is to be laid off and there are other such employees holding positions in the same group, at the same level, performing similar functions and requiring similar qualifications in the same unit," is substituted for all the words preceding the expression "the deputy head".
  - (2) The following subsection is added to section 177:
    - "(2) Where two or more auxiliary employees in positions in the same group, at the same level, performing similar functions and requiring similar qualifications in the same unit are to be laid off, or where one auxiliary employee is to be laid off and there are other auxiliary employees holding positions in the same group, at the same level, performing similar functions and requiring similar qualifications in the same unit, the deputy head shall prepare and forward a report listing the employees in order of their merit to the

public service commissioner and such employees, if approved by the public service commissioner, shall be laid off in order beginning with the auxiliary employee lowest on the list.

- (3) An employee other than an auxiliary employee shall not be laid off until all auxiliary employees in positions in the same group, at the same level, performing similar functions and requiring similar qualifications in the same unit have been laid off.
- 93. The following subsection is added to section 182:
  - "(2) Subsection (1) does not apply to auxiliary employees.".
- 94. Section 183 is amended
  - (a) by substituting the word "casual" for the expression "casual employee".
  - (b) by substituting the expression "an employee" for the expression "a permanent employee", and
  - (c) by substituting the expression "any employee" for the expression "any permanent employee".
- 95. Section 184 is amended by striking out the word "employee".
- 96. Section 185 is amended by adding to the beginning of the section the expression "Subject to the regulations".
- 97. In section 186, the expression "for approval" is added immediately before the word "together".
- 98. Section 187 is repealed.
- 99. (1) Subsection 192(2) is amended
  - (a) by adding the expression "Except as provided by subsection (3)" to the beginning of the subsection,
  - (b) by substituting the word "ten" for the word "five", and
  - (c) by substituting the expression "registered or certified mail" for the expression "registered mail".
  - (2) The following subsection is added to section 192:
    - "(3) A notice calling upon an auxiliary employee to accept a work assignment may be given personally either orally or in writing, or it may be sent by registered or certified mail addressed to the address provided under subsection (1), in which case it shall be deemed to have been received ten working days after the date of mailing."

- 100. Section 194 is amended by substituting the expression "Except as otherwise provided by the regulations, no employee or casual" for the expression "No employee", and by adding the word "renew" immediately before the word "accept".
- 101. Section 196 is amended by striking out the word "or branch".
- 102. Section 197 is amended by striking out the expession "The Commission shall have the exclusive right and authority to select training courses for the retention, development and advancement of employees in the Public Service of for such other purposes as the Commission deems appropriate and".
- 103. Section 198 is repealed.
- 104. In section 201, the word "be" is substituted for the expression "replace the Commissioner as".
- 105. In section 203, the expression "With the prior approval of the public service commissioner and the consent of the employee, a deputy head may lend any employee to another department, to another government or an agency thereof, or to any body corporate" is substituted for all of the words preceding the expression "for such period".
- 106. In section 204, the word "transfer" is added immediately after the word "appointment", and the expression "under this Act" is substituted for the expression "to a position".
- 107. (1) In subsection 205(1), the word "person" is substituted for the word "employee", and the word "transfer" is added immediately after the word "promotion".
  - (2) The following subsection is added to section 205:
    - "(1.1) The public service commission may, without further cause, suspend or dismiss a person who is appointed to a position as a result of improper influence under section 204."
  - (3) In subsection 205(2),
    - (a) the word "person" is substituted for the word "employee",
    - (b) the word "person's" is substituted for the word "employee's", and
    - (c) the word "transfer" is added immediately after the word "promotion".

- 108. The following subsection is added to section 206:
  - "(2) Subsection (1) does not apply to an employee who is not a member of a bargaining unit under the Public Service Staff Relations Act."
- 109...(1) In paragraph 209(2)(f), the word "casuals" is substituted for the expression "employees performing duties of a casual or temporary nature", and the expression "and casuals" is substituted for the expression "and employees".
  - (2) Paragraphs 209(2)(n) and (t) are repealed.
- 110. A person who is an auxiliary employee pursuant to the personnel policies of the Government of the Yukon when this Act comes into force shall be deemed to be an auxiliary for the purposes of the Public Service Commission Act as amended by this Act, and no such person shall be required to serve a probationary period after this Act comes into force.
- 111. This Act comes into force on a day to be fixed by the Commissioner in Executive Council.

## STATUTES OF YUKON 1987. Chapter 6

# AN ACT TO AMEND THE PUBLIC SERVICE STAFF RELATIONS ACT

(Assented to February 2, 1987)

The Commissioner of the Yukon Territory, by and with the advice and consent of the Legislative Assembly, enacts as follows:

- 1. This Act amends the Public Service Staff Relations Act.
- 2. (1) The following definition is added to section 2: "'auxiliary employee' has the same meaning as in the Public Service Act:".
  - (2) The following is substituted for paragraphs (d) and (e) of the definition of "employee" in section 2:
    - "(d) a person who is a casual within the meaning of the Public Service Act:".
  - (3) The following is substituted for the definition of "person employed in a managerial or confidential capacity" in section 2:
    - "'person employed in a managerial or confidential capacity' means a person
    - (a) who is employed in a confidential capacity to the Commissioner, a member of the Executive Council, a deputy head, a judge of the Supreme Court or the Territorial Court, or a chief executive officer of an agency of the Government of the Yukon,
    - (b) who is employed in a capacity confidential to the Executive Council or a committee of the Executive Council.
    - (c) who has or exercises managerial duties and responsibilities in relation to the formulation, development and administration of policies and programs,
    - (d) who is required by reason of the person's duties to deal formally on behalf of the employer with a grievance presented in accordance with the grievance process provided for in this Act.
    - (e) who is a unit head as defined in the Public Service Act.

- (f) who is employed in the Department of Finance
  - (1) in the formulation of budgets of the Government of the Yukon,
  - (11) in the conduct of fiscal relations, or
  - (iii) in a capacity confidential to the management board.
- (g), who is employed in the Public Service Commission.
- (h) who is employed in a confidential capacity to a person described in paragraphs (b) to (g),
- (1) who is not otherwise described in paragraphs (a) to (h) but who, in the opinion of the board, should not be included in any bargaining unit by reason of the person's duties and responsibilities to the employer: ".
- 3. The following subsection is added to section 21:
  - "(2) A bargaining agent for a group of employees may, subject to section 24, apply to the board in the prescribed manner for certification as the bargaining agent for an enlarged bargaining unit the bargaining agent considers appropriate for collective bargaining consisting of the original group of employees and an additional group of employees."
- 4. The following subsection is added to section 24:
  - "(4) This section does not apply in respect of an application under subsection 21(2) for the enlargement of a bargaining unit to include an additional group of employees where no collective agreement or arbitral award that is in force applies to any member of the additional group."
- 5. The following subsections are added to section 26:
  - "(3) Where an application for the enlargement of a bargaining unit is made under subsection 21(2), the board shall, subject to subsection (4), determine the group of employees that constitutes an appropriate addition to the existing bargaining unit.
  - (4) Notwithstanding any other provision of this Act, the Board shall not determine a unit of employees including auxiliary employees to constitute a unit appropriate for collective bargaining unless the unit includes all of the auxiliary employees of the employer at the time of the application and does not include any, other employees except for any employees in respect of whom the bargaining unit has previously been certified.

- (5) Notwithstanding any other provision of this Act, persons who are auxiliary employees upon the coming-into-force of this subsection shall not be included in a bargaining unit otherwise than upon application under subsection 21(2) and upon compliance with subsection (4), and persons who become auxiliary employees after the coming-into-force of this subsection shall not be included in a bargaining unit that does not include all of the other auxiliary employees."
- 6. The following new subsection is added to section 28:
  - "(2) Where the board
    - (a) has received an application under subsection 21(2),
    - (b) has determined the group of employees that constitutes an appropriate addition to the bargaining unit for collective bargaining in accordance with section 26,
    - (c) is satisfied that at the date the application was made a majority of the additional group of employees wished to be represented by the bargaining agent that made the application, and
    - (d) is satisfied that the bargaining agent has been duly authorized by the existing bargaining unit to make the application,

the board shall, subject to this Act, certify the enlarged employee organization as bargaining agent for the enlarged bargaining unit in accordance with subsection (3).

- (3) The board shall, upon making a decision to certify an enlarged bargaining unit under subsection (2), issue such transitional directions as may be required for the commencement of the certification with respect to the additional group of employees added to the bargaining unit
  - (a) to provide for the negotiation of a collective agreement to apply to the auxiliary employees until the expiration of any existing collective agreement applying to the rest of the bargaining unit, and
  - (b) to enable bargaining for the enlarged bargaining unit to proceed in an orderly fashion upon expiration of the existing collective agreement."
- 7. In subsection 29(1), the expression "paragraphs 28(1)(c) and (d) or 28(2)(c) and (d)" is substituted for the expression "paragraphs (c) and (d) of that section".

- 8. The following new subsection is added to section 46:
  - "(2) In a collective agreement under subsection (1), the benefits and terms and conditions of employment applicable to auxiliaries need not be the same as for other employees, and such benefits, terms and conditions shall be negotiated and specified separately from those for other employees."
- 9. This Act comes into force on a day to be fixed by the Commissioner in Executive Council.

### TABLE OF STATUTES

This is a table of those Statutes included in the Revised Ordinances, 1971, those subsequently added to the consolidation and those enacted since the coming into force of the Revised Ordinances, 1971, regardless of whether added to the consolidation.

#### Legend:

In. = Included in Am. = Amended

En. = Enacted Sp. = Spent

Rp. = Repealed History = from the earlier of:

(i) enactment or (ii) inclusion in R.O.Y.T., 1971 Re. = Re-enacted

N.C.N.R. = Not Consolidated, Not Repealed.

R.S.Y.T. = Revised Statutes of the Yukon Territory, originally published under the title Revised Ordinances of the Yukon Territory.

S.Y.T. = Statutes of the Yukon Territory, published before November 12, 1981, under the title Ordinances of the Yukon Territory or Ordinances of the Government of Yukon.

 $^{*}$  = As of February 28, 1987, a date for the coming into force of this Act had yet to be proclaimed. In this index there is no distinction made between an Act that has been proclaimed in force in its entirety and an Act that has been proclaimed in force only in part, there being other parts still to be proclaimed in force. Therefore, where the Act confers authority for it to be proclaimed in force in whole or in part, the user should check the proclamation to determine what parts of the Act are in force. The presence of an asterisk can in those cases be taken only as indication that some part of the Act has not been proclaimed in force.

Consolidation Chapter No. = Chapter designation of the Act for the purposes of the Consolidated version of the Statutes of the Yukon Territory.

<u>STATUTE</u>	CONSOLIDATION CHAPTER NO.	HISTORY
Access to Information	A-0.05	En. S.Y.T. 1983, c. 12
Accountants (Chartered)		See Institute of Chartered Accountants
Adult Occupational Training Agreements Repeal	N.C.N.R.	En. S.Y.T. 1975 (1st), c. 10
Age of Majority	A-0.1	En. S.Y.T. 1972 (1st), c. 1
Agricultural Products	A-0.12	En. S.Y.T. 1985, c. 5 Am. S.Y.T. 1986, c. 12, s. 1
Agriculture Development	A-0.15	En. S.Y.T. 1982, c.17
Alaska Highway Maintenance (1972)	N.C.N.R.	En. S.Y.T. 1972 (1st), c. 2
Animal Protection	A-0.2	En. S.Y.T. 1977 (2nd), c. 1 Am. S.Y.T. 1984, c. 45, s. 2

Apprentice Training	A-1	In. R.S.Y.T. 1971, c. A-1 Am. S.Y.T. 1984, c. 45, s. 3 Am. S.Y.T. 1985, c. 6 Am. S.Y.T. 1986, c. 1
Appropriation		See First, Second, etc. to Sixth
Arbitration	A-2	In. R.S.Y.T. 1971, c. A-2 Am. S.Y.T 1984, c. 45, s. 4
Archives	A-3	In. R.S.Y.T. 1971, c. A-3
Area Development	A-4	In. R.S.Y.T. 1971, c. A-4 Am. S.Y.T. 1975 (3rd), c.3
Assessment and Taxation	A-4.1	En. S.Y.T. 1972 (1st), c. 13 Am. S.Y.T. 1975 (1st), c. 18 Am. S.Y.T. 1979 (2nd), c. 16 Am. S.Y.T. 1980 (1st), c. 20, s. 2 Am. S.Y.T. 1980 (2nd), c. 17, s. 440 Am. S.Y.T. 1985, c. 7 Am. S.Y.T. 1986, c. 12, s. 11 Am. S.Y.T. 1986, c. 20
Assessment in the City of Whitehorse	N.C.N.R.	En. S.Y.T. 1977 (2nd), c. 11
Assignment of Book Debts	A-5	In. R.S.Y.T. 1971, c. A-5 Rp. S.Y.T. 1980 (2nd), c. 20, s. 74
Bills of Sale	B-1	In. R.S.Y.T. 1971, c. B-1 Rp. S.Y.T. 1980 (2nd), c. 20, s. 74
Blasting	B-2 <sup>-</sup>	In. R.S.Y.T. 1971, c. B-2 Rp. S.Y.T. 1984, c. 46
Botler and Pressure Vessel's	B-2.1	En. S.Y.T. 1979 (2nd), c. 1 Am. S.Y.T. 1980 (2nd), c. 16, s. 1
Brands	B-3	In. R.S.Y.T. 1971, c. B-3 Am. S.Y.T. 1980 (1st), c. 20, s. 3
Building Standards	B-3.1	En. S.Y.T. 1973 (1st), c. 1 Am. S.Y.T. 1980 (2nd), c. 17, s. 440 Am. S.Y.T. 1981 (2nd), c. 1
Bulk Sales	8-4	In. R.S.Y.T. 1971, c. B-4
Bulk Sales	B-4.05	En. S.Y.T. 1981 (2nd), c. 2* Am. S.Y.T. 1984, c. 45, s. 6
Business Corporations Act	<del>B-</del> .06	En. S.Y.T. 1983, c. 13 Am. S.Y.T. 1985, c. 8 Am. S.Y.T. 1986, c. 12, s. 2
Business Development Assistance	B-4.1	En. S.Y.T. 1980 (1st), c. 1 Am. S.Y.T. 1984, c. 1 Am. S.Y.T. 1984, c. 45, s. 5 Am. S.Y.T. 1985, c. 29, s. 10
Business Licence	B-5	In. R.S.Y.T. 1971, c. B-5 Am. S.Y.T. 1980 (1st), c. 20, s. 4
Canada and U.K. Reciprocal Re- cognition and Enforcement of Judgments	B-5.5	En. S.Y.T. 1984 c. 33
Cancer Diagnosis	C-1	In. R.S.Y.T. 1971, c. C-1
vancar Drayilos is	<del>0-</del> 1	Am. S.Y.T. 1984, c. 22, s. 1 Rp. S.Y.T. 1986, c. 2

Cemeteries and Burial Sites	C-2	In. R.S.Y.T. 1971, c. C-2 Am. S.Y.T 1984, c. 45, s. 10 Am. S.Y.T. 1986, c. 19, s. 41
Central Trust Company and Crown Trust Company Act	N.C.N.R.	En. S.Y.T. 1985, c. 10
Certified General Accountants	C-2.1	En. S.Y.T. 1983, c. 14
Change of Name	C-3	In. R.S.Y.T. 1971, c. C-3 Am. S.Y.T. 1985, c. 9, s. 2
Child Welfare	C-4	In. R.S.Y.T. 1971, c. C-4 Am. S.Y.T. 1972 (1st), c. 15 Rp. S.Y.T. 1984, c. 2, s 185
Children's	C-4.5	En. S.Y.T. 1984, c. 2 Am. S.Y.T. 1984, c. 34 Am. S.Y.T. 1985, c. 29, s. 2 Am. S.Y.T. 1986, c. 12, s. 3
Chiropractic	C-5	In. R.S.Y.T. 1971, c. C-5 Am. S.Y.T. 1972 (1st), c. 16 Am. S.Y.T. 1984, c. 45, s. 7 Am. S.Y.T. 1985, c. 11
Choses in Action	C-6	In. R.S.Y.T. 1971, c. C-6 Am. S.Y.T. 1980 (2nd), c. 20, s. 75
Citizenship Instruction Agreement	C-7	In. R.S.Y.T. 1971, c. C-7 Rp. S.Y.T. 1984, c. 45, s.8
Civil Defence Workers' Compensation Agreement	N.C.N.R.	En. S.Y.T. 1973 (1st), c. 26
Civil Emergency Measures	C-8	In. R.S.Y.T. 1971, c. C-8 Am. S.Y.T. 1984, c. 45, s. 9 Am. S.Y.T. 1985, c. 12
Collection	C-9	In. R.S.Y.T. 1971, c. C-9
Community Assistance	C-9.1	En. S.Y.T. 1975 (1st), c. 1  Am. S.Y.T. 1975 (3rd), c. 4  Am. S.Y.T. 1976 (1st), c. 4  Am. S.Y.T. 1977 (1st), c. 8  Am. S.Y.T. 1978 (1st), c. 3  Am. S.Y.T. 1980 (1st), c. 2  Am. S.Y.T. 1980 (2nd), c. 1  Am. S.Y.T. 1980 (2nd), c. 16, s. 2  Am. S.Y.T. 1981 (1st), c. 11, s. 21  Rp. S.Y.T. 1986, c. 24*
Companies	C-10	In. R.S.Y.T. 1971, c. C-10 Am. S.Y.T. 1975 (3rd), c. 5 Am. S.Y.T. 1980 (1st), c. 3 Am. S.Y.T. 1980 (2nd), c. 2 Am. S.Y.T. 1980 (2nd), c. 20, s. 76 Am. S.Y.T. 1982, c. 18 Am. S.Y.T. 1983, c. 13
Compensation for Victims of Crime	C-10.1	En. S.Y.T. 1975 (1st), c. 2 Am. S.Y.T. 1976 (1st), c. 5 Am. S.Y.T. 1980 (2nd), c. 3 Am. S.Y.T. 1981 (1st), C. 10, s. 1 Am. S.Y.T. 1983, c. 15 Am. S.Y.T. 1985, c. 29, s. 3
Conditional Sales	C-11	In. R.S.Y.T. 1971, c. C-11 Rp. S.Y.T. 1980 (2nd), c. 20, s. 74
Condominium	C-12	In. R.S.Y.T. 1971, c. C-12 Am. S.Y.T. 1977 (2nd), c. 5 Am. S.Y.T. 1980 (1st), c. 4

Conflict of Laws (Traffic Accidents)	E-12.1	Em. S.Y.T. 1972 (1st), c. 3
Constitutional Questions	C-12.2	Em. S.Y.T. 1983, c. 16 Am. S.Y.T. 1985, c. 29, s. 4
Consumers' Protection	C-13°	In. R.S.Y.T. 1971, c. C-13
Contributory Regligence	C-14	Im. R.S.Y.T. 1971, c. C-14 Am. S.Y.T. 1980 (1st), c. 20, s. 5
Controverted Elections	C-15	Im. R.S.Y.T. 1971, c. C-15 Am. S.Y.T. 1977 (2nd), c. 3, s. 103 Am. S.Y.T. 1984, c. 45, s. 12
Co-operative Associations	E-16	In. R.S.Y.T. 1971, c. C-16  Am. S.Y.T. 1973 (1st), c. 8  Am. S.Y.T. 1975 (2nd), c. 7  Am. S.Y.T. 1980 (2nd), c. 4  Am. S.Y.T. 1981 (1st), c. 10, s. 2  Am. S.Y.T. 1983, c. 13  Am. S.Y.T. 1986, c. 12, s. 4
Cornea Transplant	€-17	In. R.S.Y.T. 1971, c. C-17 Rp. S.Y.T. 1980 (1st), c. 14, s. 16
Coroners	C-18	In. R.S.Y.T. 1971, c. C-18 Am. S.Y.T. 1972 (2nd), c. 17 Am. S.Y.T. 1984, c. 45, s. 11 Am. S.Y.T. 1986, c. 3
Corporation Securities Registration	C-19	In. R.S.Y.T. 1971, c. C-19 Am. S.Y.T. 1980 (1st), c. 20, s. 6 Rp. S.Y.T. 1980 (2nd), c. 20, s. 74
Corrections	C-19.1	En. S.Y.T. 1973 (1st), c. 2 Am. S.Y.T. 1980 (1st), c. 20, s. 7 Am. S.Y.T. 1984, c. 2, s. 186 Am. S.Y.T. 1986, c. 12, s. 5
Court of Appeal	€-20	In. R.S.Y.T. 1971, c. C-20 Am. S.Y.T. 1974 (2nd), c. 4 Am. S.Y.T. 1981 (2nd), c. 3 Am. S.Y.T. 1984, c. 35
Court Worker Agreement	N.C.N.R.	En. S.Y.T. 1975 (1st), c. 3
Credit Union	C-20.1	En. S.Y.T. 1977 (1st), c. 2 Rp. S.Y.T. 1980 (1st), c. 5
Credit Unions	C-21	In. R.S.Y.T. 1971, c. C-21 Am. S.Y.T. 1975 (2nd), c. 8 Am. S.Y.T. 1976 (1st), c. 6 Rp. S.Y.T. 1977 (1st), c. 2, s. 158
Creditors' Relief	C-22	In. R.S.Y.T. 1971, c. €-22
Curfew	C-23	In. R.S.Y.T. 1971, c. C-23 Rp. S.Y.T. 1984, c. 45, s. 13
Custody of Federal Parole Violators Agreement	N.C.N.R.	En. S.Y.T. 1975 (1st), c. 4
Dangerous Goods Transportation	0-0.05	En. S.Y.T. 1985, c. 13 Am. S.Y.T. 1986, c. 12, s. 6
Dawson, City of, General Purposes Loan	F.C.N.R.	En. S.Y.T. 1973 (1st), c. 25
Dawson City Utilities Replacement	N_C.N_R.	En. S.Y.T. 1978 (1st), c. 14 Am. S.Y.T. 1980 (2nd), c. 16, s. 3 Am. S.Y.T. 1981 (2nd), c. 11, s. 1

Dawson General Purposes Loan	N.C.N.R.	En. S.Y.T. 1972 (1st), c. 31
Dawson Historic Sites Aid Grants	N.C.N.R.	En. S.Y.T. 1977 (1st), c. 21 Rp. S.Y.T. 1984, c. 45, s. 14
Day Care	D-01	En. S.Y.T. 1979 (2nd), c. 3 Am. S.Y.T. 1980 (2nd), c. 16, s. 4 Am. S.Y.T. 1983, c. 19
Defamation	D-1	In. R.S.Y.T. 1971, c. D-1 Am. S.Y.T. 1980 (2nd), c. 5 Am. S.Y.T. 1984, c. 45, s. 15
Dental Profession	D-2	In. R.S.Y.T. 1971, c. D-1 Am. S.Y.T. 1973 (1st), c. 9 Am. S.Y.T. 1979 (1st), c. 1 Am. S.Y.T. 1984, c. 3 Am. S.Y.T. 1984, c. 36
Dependants' Relief	D-3	In. R.S.Y.T. 1971, c. D-3 Rp. S.Y.T. 1980 (2nd), c. 6
Dependants' Relief	D-3.1	En. S.Y.T. 1980 (2nd), c. 6 Am. S.Y.T. 1981 (1st), c. 10, s. 3
Denture Technicians	D-3.5	En. S.Y.T. 1984, c. 36
Devolution of Real Property	D-4	In. R.S.Y.T. 1971, c. D-4
Disabled Persons' Allowance	D-5	In. R.S.Y.T. 1971, c. D-5 Rp. S.Y.T. 1975 (1st), c. 11
Distress	D-6	In. R.S.Y.T. 1971, c. D-6 Am. S.Y.T. 1980 (2nd), c. 20, s. 77 Am. S.Y.T. 1984, c. 45, s. 16
Dog	D-7	In. R.S.Y.T. 1971, c. D-7 Am. S.Y.T. 1980 (2nd), c. 16, s. 5 Am. S.Y.T. 1985, c. 9, s. 3
Economic and Regional Develop- ment Agreement	E05	En. S.Y.T. 1983, c. 17
Elections	E-1	In. R.S.Y.T. 1971, c. E-1 Am. S.Y.T. 1974 (2nd), c. 5 Am. S.Y.T. 1975 (3rd), c. 6 Am. S.Y.T. 1977 (1st), c. 9 Am. S.Y.T. 1977 (2nd), c. 2 Am. S.Y.T. 1977 (2nd), c. 3, s. 104 Am. S.Y.T. 1978 (1st), c. 4 Rp. S.Y.T. 1979 (2nd), c. 18, s. 5
Elections	E-1.1	En. S.Y.T. 1977 (2nd), c. 3 Am. S.Y.T. 1980 (1st), c. 20, s. 8 Am. S.Y.T. 1980 (2nd), c. 7 Am. S.Y.T. 1981 (2nd), c. 4 Am. S.Y.T. 1983, c. 18 Am. S.Y.T. 1985, c. 9, s. 4 Am. S.Y.T. 1985, c. 14
Elections, 1977	E-1.2	See Elections, c. E-1.1
Electoral District Boundaries	E-1.3	En. S.Y.T. 1977 (2nd), c. 2 Am. S.Y.T. 1981 (2nd), c. 11, s. 2 Am. S.Y.T. 1982 (1st), c. 1 Am. S.Y.T. 1984, c. 37
Electoral District Boundaries Commission	N.C.N.R.	En. S.Y.T. 1974 (2nd), c. 1 Sp. June 17, 1974

Electoral District Boundaries Commission	N.C.N.R.	En. S.Y.T. 1977 (1st), c. 3 Sp. November 7, 1977
Electoral District Boundaries Commission	N.C.N.R.	En. S.Y.T. 1984, c. 4 Sp. November 1, 1984
Electrical Protection	E-2	In. R.S.Y.T. 1971, c. E-2 Rp. S.Y.T. 1976 (3rd), c. 3
Electrical Protection	E-2.01	En. S.Y.T. 1976 (3rd), c. 3 Am. S.Y.T. 1984, c. 38
Electrical Public Utilities	E-2.1	En. S.Y.T. 1972 (1st), c. 4 Am. S.Y.T. 1974 (2nd), c. 6 Rp. S.Y.T. 1984, c. 26, s. 79
Elevator and Fixed Conveyances	E-3	In. R.S.Y.T. 1971, c. E-3
Emergency Medical Aid	E-3.1	En. S.Y.T. 1976 (3rd), c. 1
Employment Agencies	E-4	In. R.S.Y.T. 1971, c. E-4 Rp. S.Y.T. 1972 (1st), c. 5
Employment Agencies	E-4.1	En. S.Y.T. 1972 (1st), c. 5
Employment Expansion and Development	N.C.N.R.	En. S.Y.T. 1983, c. 1
Employment Standards	E-4.5	En. S.Y.T. 1984, c. 5 Am. S.Y.T. 1985, c. 15
Energy Conservation Agreement	N.C.N.R.	En. S.Y.T. 1980 (1st), c. 6
Energy Conservation Assistance	E-4.7	En. S.Y.T. 1984, c. 6 Am. S.Y.T. 1985, c. 16
Engineering Profession	E-5	In. R.S.Y.T. 1971, c. E-5 Am. S.Y.T. 1985, c. 9, s. 5
Evidence	E-6	In. R.S.Y.T. 1971, c. E-6 Am. S.Y.T. 1980 (1st), c. 7 Am. S.Y.T. 1980 (1st), c. 20, s. 9 Am. S.Y.T. 1981 (1st), c. 10, s. 4 Am. S.Y.T. 1985, c. 9, s. 6
Executions	E-6.1	En. S.Y.T. 1980 (1st), c. 8 Am. S.Y.T. 1986 c. 16, s. 16
Executive Council	E-6.2	En. S.Y.T. 1982, c. 16
Exemptions	E-7	In. R.S.Y.T. 1971, c. E-7 Am. S.Y.T. 1984, c. 22, s. 2 Am. S.Y.T. 1984, c. 45, s. 17
Expropriation	E-8	In. R.S.Y.T. 1971, c. E-8 Am. S.Y.T. 1984, c. 45, s. 18
Factors	F-1	In. R.S.Y.T. 1971, c. F-1 Am. S.Y.T. 1980 (2nd), c. 16, s. 6 Am. S.Y.T. 1980 (2nd), c. 20, s. 78
Fair Practices	F-2	In. R.S.Y.T. 1971, c. F-2 Am. S.Y.T. 1974 (2nd), c. 7 Rp. S.Y.T. 1987, c.3
Faro General Purposes Loan	N.C.N.R.	En. S.Y.T. 1972 (1st), c. 30
Faro General Purposes Loan	N.C.N.R.	En. S.Y.T. 1973 (1st), c. 27
Fatal Accidents	F-3	In. R.S.Y.T. 1971, c. F-3 Rp. S.Y.T. 1980 (1st), c. 9

Fatal Accidents	F-3.1	En. S.Y.T. 1980 (1st), c. 9
Fifth Appropriation, 1971-72	N.C.N.R.	En. S.Y.T. 1972 (1st), c. 28
Fifth Appropriation, 1973-74	N.C.N.R.	En. S.Y.T. 1974 (2nd), c. 16
Fifth Appropriation, 1974-75	N.C.N.R.	En. S.Y.T. 1974 (2nd), c. 21
Fifth Appropriation, 1977-78	N.C.N.R.	En. S.Y.T. 1979 (1st), c. 5
Fifth Appropriation, 1981-82	N.C.N.R.	En. S.Y.T. 1982, c. 19
Fifth Appropriation, 1982-83	N.C.N.R.	En. S.Y.T. 1984, c. 7
Fifth Appropriation, 1983-84	N.C.N.R.	En. S.Y.T. 1984, c. 8
Fifth Appropriation, 1984-85	N.C.N.R.	En. S.Y.T. 1985, c. 1
Fifth Appropriation, 1985-86	N.C.N.R.	En. S.Y.T. 1986, c. 21
Financial Administration	F-4	In. R.S.Y.T. 1971, c. F-4 Rp. S.Y.T. 1976 (3rd), c. 4
Financial Administration	F-4.1	En. S.Y.T. 1976 (3rd), c. 4 Rp. S.Y.T. 1983, c. 19
Financial Administration	F-4.2	En. S.Y.T. 1983, c. 19 Am. S.Y.T. 1984, c. 9 Am. S.Y.T. 1985, c. 17 Am. S.Y.T. 1986, c. 12, s. 7
Financial Agreement, 1973	N.C.N.R.	En. S.Y.T. 1973 (1st), c. 28
Financial Agreement, 1974	N.C.N.R.	En. S.Y.T. 1974 (2nd), c. 22
Financial Agreement, 1975	N.C.N.R.	En. S.Y.T. 1975 (1st), c. 21
Financial Agreement, 1976	N.C.N.R.	En. S.Y.T. 1976 (1st), c. 10
Financial Agreement, 1977	N.C.N.R.	En. S.Y.T. 1977 (1st), c. 14
Financial Agreement, 1978	N.C.N.R.	En. S.Y.T. 1978 (1st), c. 19
Financial Agreement, 1979	N.C.N.R.	En. S.Y.T. 1979 (1st), c. 8
Financial Agreement, 1980	N.C.N.R.	En. S.Y.T. 1980 (1st), c. 10
Financial Agreement, 1981	N.C.N.R.	En. S.Y.T. 1981 (1st), c. 1
Financial Agreement, 1982	N.C.N.R.	En. S.Y.T. 1982, c. 10
Financial Agreement, 1983	N.C.N.R.	En. S.Y.T. 1983, c. 2 Am. S.Y.T. 1984, c. 10, s. 7
Financial Agreement, 1984	N.C.N.R.	En. S.Y.T. 1984, c. 10
Financial Agreement, 1985-88	N.C.N.R.	En. S.Y.T. 1985, c. 18
Fine Option	F-4.5	En. S.Y.T. 1985, c. 19 Am. S.Y.T. 1986, c. 12, s. 8
Fire Prevention	F-5	In. R.S.Y.T. 1971, C. F-5 Am. S.Y.T. 1972 (1st), c. 18 Am. S.Y.T. 1973 (1st), c. 10 Am. S.Y.T. 1980 (2nd), c. 12 Am. S.Y.T. 1980 (2nd), c. 16, s. 7
Firearms Administration Agreement	N.C.N.R.	En. S.Y.T. 1979 (1st), C. 3
First Appropriation, 1972-73	N.C.N.R.	En. S.Y.T. 1972 (1st), c. 27
First Appropriation, 1973-74	N.C.N.R.	En. S.Y.T. 1973 (1st), c. 21

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First Appropriation, 1974-75
                                   N.C.N.R.
                                                  En. S.Y.T. 1974 (2nd), c. 17
First Appropriation, 1975-76
                                                  En. S.Y.T. 1975 (1st), c. 20
                                  N.C.N.R.
First Appropriation, 1976-77
                                  N.C.N.R.
                                                  En. S.Y.T. 1976 (1st), c. 11
First Appropriation, 1977-78
                                                  En. S.Y.T. 1977 (1st), c. 15
                                   N.C.N.R.
First Appropriation, 1978-79
                                  N.C.N.R.
                                                  En. S.Y.T. 1978 (1st), c. 18
First Appropriation, 1979-80
                                  N.C.N.R.
                                                  En. S.Y.T. 1979 (1st), c. 7
First Appropriation, 1980-81
                                  N.C.N.R.
                                                  En. S.Y.T. 1979 (2nd), c. 4
First Appropriation, 1981-82
                                  N.C.N.R.
                                                  En. S.Y.T. 1980 (2nd), c. 8
First Appropriation, 1982-83
                                  N.C.N.R.
                                                  En. S.Y.T. 1980 (2nd), c. 5
First Appropriation, 1983-84
                                  N.C.N.R.
                                                  En. S.Y.T. 1982, c. 20
First Appropriation, 1984-85
                                  N.C.N.R.
                                                  En. S.Y.T. 1983, c. 20
First Appropriation, 1985-86
                                  N.C.N.R.
                                                  En. S.Y.T. 1984, c. 39
First Appropriation, 1986-87
                                   N.C.N.R.
                                                  En. S.Y.T. 1985, c. 20
First Appropriation, 1987-88
                                   N.C.N.R.
                                                  En. S.Y.T. 1987, c. 1
Fitness and Amateur Sport
                                                  In. R.S.Y.T. 1971, C. F-6
                                   F-6
                                                  Rp. S.Y.T. 1984, c. 45, s. 19
  Agreement
Flag
                                   F-7
                                                  In. R.S.Y.T. 1971, C. F-7
                                                  Am. S.Y.T. 1985, c. 29, s. 5
Floral Emblem
                                   F-8
                                                  In. R.S.Y.T. 1971, c. F-8
Foreign Arbitral Awards
                                   F-8.1
                                                  En. S.Y.T. 1986, c. 4
                                                  In. R.S.Y.T. 1971, c. F-9
Am. S.Y.T. 1980 (1st), c. 20, s. 10
Am. S.Y.T. 1984, c. 22, s. 3
Forest Protection
                                   F-9
Fourth Appropriation, 1972-73
                                  N.C.N.R.
                                                  En. S.Y.T. 1973 (1st), c. 20
Fourth Appropriation, 1973-74
                                  N.C.N.R.
                                                  En. S.Y.T. 1973 (4th), c. 24
Fourth Appropriation, 1974-75
                                  N.C.N.R.
                                                  En. S.Y.T. 1974 (2nd), c. 20
Fourth Appropriation, 1975-76
                                                  En. S.Y.T. 1976 (1st), c. 12
                                  N.C.N.R.
Fourth Appropriation, 1977-78
                                  N.C.N.R.
                                                  En. S.Y.T. 1978 (1st), c. 17
Fourth Appropriation, 1980-81
                                  N.C.N.R.
                                                  En. S.Y.T. 1980 (2nd), c. 6
Fourth Appropriation, 1981-82
                                  N.C.N.R.
                                                  En. S.Y.T. 1982 (1st), c. 2
Fourth Appropriation, 1982-83
                                  N.C.N.R.
                                                  En. S.Y.T. 1983, c. 3
Fourth Appropriation, 1982-83
                                  N.C.N.R.
                                                  En. S.Y.T. 1983, c. 21
Fourth Appropriation, 1984-85
                                  N.C.N.R.
                                                  En. S.Y.T. 1984, c. 40
Fourth Appropriation, 1985-86
                                  N.C.N.R.
                                                  En. S.Y.T. 1986, c. 5
Fourth Appropriation, 1986-87
                                  N.C.N.R.
                                                  En.
                                                                  S.Y.T. 1987, c. 2
Fraudulent Preferences
                                  F-9.1
                                                  En. S.Y.T. 1973 (1st), c. 3
  and Conveyances
Frustrated Contracts
                                  F-10
                                                  In. R.S.Y.T. 1971, c. F-10
                                                  Rp. S.Y.T. 1980 (1st), c. 11
```

Frustrated Contracts	F-10.1	En. S.Y.T. 1980 (1st), c. 11
Fuel Oil Tax	F-11	In. R.S.Y.T. 1971, c. F-11 Rp. S.Y.T. 1973 (1st), c. 4
Fuel Oil Tax	F-11.1	En. S.Y.T. 1973 (1st), c. 4 Am. S.Y.T. 1975 (2nd), c. 9 Am. S.Y.T. 1979 (1st), c. 2 Am. S.Y.T. 1981 (1st), c. 2 Am. S.Y.T. 1985, c. 21 Am. S.Y.T. 1986, c. 6
Funeral Directors	F-11.5	En. S.Y.T. 1985, c. 22
Fur Export	F-12	In. R.S.Y.T. 1971, c. F-12 Am. S.Y.T. 1979 (2nd), c. 5 Rp. S.Y.T. 1981 (2nd), c. 16, s. 193
Game	G-1	In. R.S.Y.T. 1971, C. G-1 Am. S.Y.T. 1972 (1st), c. 19 Am. S.Y.T. 1973 (1st), c. 11 Am. S.Y.T. 1975 (2nd), c. 10 Am. S.Y.T. 1975 (3rd), c. 7 Am. S.Y.T. 1979 (2nd), c. 6 Am. S.Y.T. 1980 (2nd), c. 9 Am. S.Y.T. 1980 (2nd), c. 16, s. 8 Rp. S.Y.T. 1981 (2nd), c. 16, s. 193
Gaols	G-2	In. R.S.Y.T. 1971, c. G-2
Garage Keepers' Lien	G-3	In. R.S.Y.T. 1971, c. G-3 Am. S.Y.T. 1980 (2nd), c. 20, s. 79
Garnishee	G-4	In. R.S.Y.T. 1971, c. G-4 Rp. S.Y.T. 1980 (1st), c. 12
Garnishee	G-4.1	En. S.Y.T. 1980 (1st), c. 12 Am. S.Y.T. 1986, c. 16, s. 15
Gasoline Handling	G-5	En. S.Y.T. 1972 (1st), c. 6 Am. S.Y.T. 1984, c. 45, s. 20
General Development Agreement	G-5.1	En. S.Y.T. 1977 (1st), c. 4
Government Employee Housing Plan	G-6	En. S.Y.T. 1975 (1st), c. 5 Am. S.Y.T. 1980 (1st), c. 13 Am. S.Y.T. 1980 (1st), c. 20, s. 11 Am. S.Y.T. 1983, c. 19 Am. S.Y.T. 1984, c. 11
Government Employees Unemploy- ment Insurance Agreement Act	6-7	En. S.Y.T. 1984, c. 12
Hairdressers Act	N.C.N.R.	En. S.Y.T. 1967 (1st), c. 4 Rp. S.Y.T. 1984, c. 45, s. 21
Health Care Insurance Plan	H-1	In. R.S.Y.T. 1971, c. H-1 Am. S.Y.T. 1981 (1st), c. 3 Am. S.Y.T. 1983, c. 19 Am. S.Y.T. 1984, c. 41
Highways	H-1.1	En. S.Y.T. 1975 (3rd), c. 1 Am. S.Y.T. 1976 (3rd), c. 5 Am. S.Y.T. 1978 (1st), c. 5
Historic Sites and Monuments	H-2	In. R.S.Y.T. 1971, c. H-2 Am. S.Y.T. 1975 (2nd), C. 11

Home Owners' Grant	H-2.1	En. S.Y.T. 1976 (1st), c. 1 Am. S.Y.T. 1976 (3rd), c. 6 Am. S.Y.T. 1978 (1st), c. 6 Am. S.Y.T. 1980 (2nd), c. 10 Am. S.Y.T. 1981 (1st), c. 4 Am. S.Y.T. 1985, c. 23 Am. S.Y.T. 1986, c. 22
Hospital Insurance Services	H-3	In. R.S.Y.T. 1971, c. H-3 Am. S.Y.T. 1975 (3rd), c. 8 Am. S.Y.T. 1984, c. 42
Hotels and Tourist Establishments	H-4	In. R.S.Y.T. 1971, c. H-4
Housing	H-5	In. R.S.Y.T. 1971, c. H-5
Housing Corporation	H-5.1	En. S.Y.T. 1972 (1st), c. 7 Am. S.Y.T. 1983, c. 19
Housing Development	H-6	In. R.S.Y.T. 1971, c. H-6 Am. S.Y.T. 1975 (2nd), c. 12 Am. S.Y.T. 1984, c. 45, s. 22
Human Rights Act	H-6.1	En. S.Y.T. 1987, c. 3
Human Tissue Gift	H-7	En. S.Y.T. 1980 (1st), c. 14
Immunity of Members	I-1	In. R.S.Y.T. 1971, c. I-1 Rp. S.Y.T. 1978 (1st), c. 2, s. 42
Income Tax	I-1.01	En. S.Y.T. 1979 (2nd), c 7 Am. S.Y.T. 1980 (2nd), c. 11 Am. S.Y.T. 1981 (2nd), c. 7 Am. S.Y.T. 1983, c. 4 Am. S.Y.T. 1984, c. 13 Am. S.Y.T. 1985, c. 24
Institute of Chartered Accountants	'I-1.1	En. S.Y.T. 1976 (3rd), c. 2
Insurance	I-2	In. R.S.Y.T. 1971, c. I-2 Rp. S.Y.T. 1977 (1st), c. 1, s. 236
Insurance	I-2.01	En. S.Y.T. 1977 (1st), c. 1 Am. S.Y.T. 1977 (2nd), c. 4, s. 257 Am. S.Y.T. 1980 (1st), c. 15 Am. S.Y.T. 1980 (1st), c. 20, s. 12 Am. S.Y.T. 1980 (2nd), c. 16, s. 9 Am. S.Y.T. 1982, c. 21 Am. S.Y.T. 1985, c. 25 Am. S.Y.T. 1985, c. 29, s. 6
Insurance Premium Tax	I-2.1	En. S.Y.T. 1976 (1st), c. 2 Am. S.Y.T. 1976 (3rd), c. 7 Am. S.Y.T. 1980 (2nd), c. 12
Interim Supply Appropriation, 1974-75	N.C.N.R.	En. S.Y.T. 1974 (2nd), c. 23
Interim Supply Appropriation, 1980-81	N.C.N.R.	En. S.Y.T. 1980 (1st), c. 16
Interim Supply Appropriation, 1981-82	N.C.N.R.	En. S.Y.T. 1981 (1st), c. 5
Interim Supply Appropriation, 1982-83	N.C.N.R.	En. S.Y.T. 1982 (1st), c. 4
Interim Supply Appropriation, 1982-83 (no. 2)	N.C.N.R.	En. S.Y.T. 1982, c. 11

```
Interim Supply Appropriation,
   1982-83 (no. 3)
                                            N.C.N.R.
                                                                En. S.Y.T. 1982, c. 12
Interim Supply Appropriation,
                                            N.C.N.R.
    1983-84
                                                                En. S.Y.T. 1983, c. 5
Interim Supply Appropriation,
                                            N.C.N.R.
    1983-84 (No. 2)
                                                                En. S.Y.T. 1983, c. 6
Interim Supply Appropriation,
                                            N.C.N.R.
    1984-85
                                                                En. S.Y.T. 1984, c. 14
Interim Supply Appropriation,
    1984-85 (No. 2)
                                            N.C.N.R.
                                                                En. S.Y.T. 1984, c. 15
Interim Supply Appropriation,
                                            N.C.N.R.
    1985-86
                                                                En. S.Y.T. 1985, c. 2
Interim Supply Appropriation,
                                            N.C.N.R.
    1986-87
                                                                En. S.Y.T. 1986, c. 7
Interim Supply Appropriation,
    1986-87 (No. 2)
                                            N.C.N.R.
                                                                En. S.Y.T. 1986, c. 8
                                                                 En. S.Y.T. 1981 (1st), c. 6
International Child Abduction
                                            I-2.2
   (Hague Convention)
                                                                Rp. S.Y.T. 1984, c. 2, s. 187
Interpretation
                                            1-3
                                                                In. R.S.Y.T. 1971, c. I-3
                                                                Am. S.Y.T. 1973 (1st), c. 12
Am. S.Y.T. 1974 (2nd), c. 8
Am. S.Y.T. 1979 (2nd), c. 2, s. 4
Am. S.Y.T. 1980 (1st), c. 20, s. 13
                                                                Am. S.Y.T. 1980 (1st), c. 30, s. 35
Am. S.Y.T. 1980 (2nd), c. 20, s. 80
Am. S.Y.T. 1982 (1st), c. 4
Am. S.Y.T. 1983, c. 19
                                                                Am. S.Y.T. 1984, c. 2, s. 191.1
                                                               Am. S.Y.T. 1985, c. 29, s. 7
Am. S.Y.T. 1985, c. 9, s. 7
Am. S.Y.T. 1986, c. 12, s.9
Interprovincial Subpoena
                                           I-3.1
                                                                 En. S.Y.T. 1981 (1st), c. 7
Intestate Succession
                                            I-4
                                                                In. R.S.Y.T. 1971, c. I-4
                                                                Am. S.Y.T. 1984, c. 2, s. 188
Judicature
                                           J-1
                                                                In. R.S.Y.T. 1971, c. J-1
                                                               Am. S.Y.T. 1975 (2nd), c. 13
Am. S.Y.T. 1980 (1st), c. 28, s. 1
Am. S.Y.T. 1980 (1st), c. 30, s. 35
Am. S.Y.T. 1980 (2nd), c. 15
                                                               Am. S.Y.T. 1980 (2nd), c. 20, s. 81
Am. S.Y.T. 1981 (2nd), c. 8
Am. S.Y.T. 1983, c. 19
                                                                Am. S.Y.T. 1984, c. 2, s. 189
                                                                Am. S.Y.T. 1986, c. 16, s. 14
Jury
                                           J-2
                                                                In. R.S.Y.T., c. J-2
                                                                Am. S.Y.T. 1984, c. 45, s. 23
                                                               In. R.S.Y.T. 1971, c. J-3
Am. S.Y.T. 1976 (3rd), c. 8
Rp. S.Y.T. 1979 (2rd), c. 8, s. 23
Justice of the Peace
                                           J-3
Justice of the Peace Court
                                           J-3.1
                                                                En. S.Y.T. 1979 (2nd), c. 8
                                                                Am. S.Y.T. 1981 (2nd), c. 9
                                                                Rp. S.Y.T. 1983, c. 10, s. 13
```

```
L-1
Labour Standards
                                                                     In. R.S.Y.T. 1971, c. L-1
                                                                     Am. S.Y.T. 1973 (1st), c. 13
Am. S.Y.T. 1974 (2nd), c. 9
Am. S.Y.T. 1975 (1st), c. 14
                                                                     Am. S.Y.T. 1975 (3rd), c. 9
Rp. S.Y.T. 1984, c. 5, s. 108
                                                                     En. S.Y.T. 1976 (2nd), c. 1
Rp. S.Y.T. 1983, c. 19
Land Acquisition Fund
                                                L-1.1
Land Planning
                                                L-1.2
                                                                     En. S.Y.T. 1982, c. 22*
                                                                     In. R.S.Y.T. 1971, c. L-2
Am. S.Y.T. 1972 (1st), c. 20
Landlord and Tenant
                                               L-2
                                                                     Am. S.Y.T. 1980 (1st), c. 20, s. 14
                                                                     Am. S.Y.T. 1981 (2nd), c. 10
Am. S.Y.T. 1982, c. 23
Am. S.Y.T. 1984, c. 16
Lands
                                               1-3
                                                                     In. R.S.Y.T. 1971, c. L-3
                                                                     Rp. S.Y.T. 1972 (1st), c. 8, 14
Lands
                                               L-3.01
                                                                     En. S.Y.T. 1972 (1st), c. 8, 14
                                                                     Am. S.Y.T. 1981 (1st), c. 8
Legal Aid
                                               L-3.1
                                                                     En. S.Y.T. 1975 (3rd), c. 2
                                                                     Rp. S.Y.T. 1984, c. 18a
Legal Profession
                                               L-4
                                                                     In. R.S.Y.T. 1971, c. L-4
                                                                     Am. S.Y.T. 1975 (3rd), c. 10
Am. S.Y.T. 1979 (2nd), c. 9
Am. S.Y.T. 1980 (1st), c. 20, s. 15
Rp. S.Y.T. 1984, c. 17
Legal Profession
                                                                     En. S.Y.T. 1984, c. 17
Am. S.Y.T. 1985, c. 26
                                               L-4.1
                                                                     In. R.S.Y.T. 1971, c. L-5
Am. S.Y.T. 1980 (1st), c. 20, s. 16
Rp. S.Y.T. 1984, c. 17, s. 115
Legal Profession Accounts
                                               L-5
                                                                     En. S.Y.T. 1984, c. 18
Am. S.Y.T. 1985, c. 29, s. 8
Am. S.Y.T. 1986, c. 23
Legal Services Society
                                               L-5.05
                                                                    En. S.Y.T. 1978 (1st), c. 2
Am. S.Y.T. 1979 (2nd), c. 18
Am. S.Y.T. 1980 (2nd), c. 25
Legislative Assembly
                                               L-5.1
                                                                     Am. S.Y.T. 1981 (1st), c. 20
Am. S.Y.T. 1982 (1st), c. 9
Am. S.Y.T. 1982, c. 24
                                                                     Am. S.Y.T. 1983, c. 22
                                                                     Am. S.Y.T. 1983, c. 23
                                                                     Am. S.Y.T. 1984, c. 43
Legislative Assembly Retirement
                                               L-5.2
                                                                     En. S.Y.T. 1984, c. 19
   Allowances
Legitimation
                                                                     In. R.S.Y.T. 1971, c. L-6
                                               L-6
                                                                     Rp. S.Y.T. 1984, c. 2, s. 190
Limitation of Actions
                                               L-7
                                                                     In. R.S.Y.T. 1971, c. L-7
                                                                     Am. S.Y.T. 1984, c. 45, s. 24
```

```
Liquor
                                       L-8
                                                         In. R.S.Y.T. 1971, c. L-8
                                                        Am. S.Y.T. 1976 (1st), c. 3, s. 5
Am. S.Y.T. 1976 (3rd), c. 9
                                                         Am. S.Y.T. 1977 (1st), c. 13
                                                        Am. S.Y.T. 1979 (2nd), c. 10
Am. S.Y.T. 1980 (1st), c. 17
Am. S.Y.T. 1980 (1st), c. 20, s. 17
                                                         Am. S.Y.T. 1982,(2nd), c. 25
                                                        Am. S.Y.T. 1983, c. 19
Am. S.Y.T. 1984, c. 20
                                                         Am. S.Y.T. 1985, c. 3
                                                        Am. S.Y.T. 1985, c. 9, s. 8
Am. S.Y.T. 1985, c. 29, s. 21
Am. S.Y.T. 1986, c. 9
                                                        En. S.Y.T. 1976 (1st), c. 3
Am. S.Y.T. 1977 (1st), c. 10
Liquor Tax
                                      L-8.1
                                                         Am. S.Y.T. 1980 (1st), c. 18
                                                         Am. S.Y.T. 1986, c. 10, s. 1
Loan Agreement (1972), No. 1
                                       N.C.N.R.
                                                        En. S.Y.T. 1972 (1st), c. 26
Loan Agreement (1973), No. 1
                                       N.C.N.R.
                                                        En. S.Y.T. 1973 (1st), c. 29
Loan Agreement (1973), No. 2
                                      N.C.N.R.
                                                        En. S.Y.T. 1973 (1st), c. 30
Loan Agreement (1974), No. 1
                                                        En. S.Y.T. 1974 (2nd), c. 24
                                      N.C.N.R.
Loan Agreement (1975), No. 1
                                      N.C.N.R.
                                                        En. S.Y.T. 1975 (1st), c. 22
Loan Agreement (1975), No. 2
                                      N.C.N.R.
                                                        En. S.Y.T. 1976 (1st), c. 14
Loan Agreement (1976), No. 1
                                      N.C.N.R.
                                                        En. S.Y.T. 1976 (1st), c. 13
Loan Agreement (1977), No. 1
                                      N.C.N.R.
                                                        En. S.Y.T. 1977 (1st), c. 19
Loan Agreement (1978), No. 1
                                      N.C.N.R.
                                                        En. S.Y.T. 1978 (1st), c. 20
Loan Agreement (1979), No. 1
                                                        En. S.Y.T. 1979 (1st), c. 9
                                      N.C.N.R.
Loan Agreement (1980), No. 1
                                      N.C.N.R.
                                                        En. S.Y.T. 1980 (1st), c. 19
                                                        Rp/Re. S.Y.T. 1980 (2nd), c. 14
Loan Agreement (1981), No. 1
                                      N.C.N.R.
                                                        En. S.Y.T. 1981 (1st), c. 9
Loan Agreement (1982), No. 1
                                      N.C.N.R.
                                                        En. S.Y.T. 1982 (1st), c. 5
                                                        Am. S.T.T. 1984, c. 44
Loan Guarantee, 1985
                                      N.C.N.R.
                                                        En. S.Y.T. 1985, c. 27
                                                        In. R.S.Y.T. 1971, c. L-9
Local Improvement District
                                      L-9
                                                        Am. S.Y.T. 1972 (1st), c. 21
Am. S.Y.T. 1972 (2nd), c. 22
Am. S.Y.T. 1977 (1st), c. 11
                                                        Am. S.Y.T. 1977 (1st), c. 22
                                                        Am. S.Y.T. 1977 (2nd), c. 6
Rp. S.Y.T. 1980 (2nd), c. 17, s. 441
Lord's Day
                                      L-10
                                                        In. R.S.Y.T. 1971, c. L-10
Lotteries
                                      L-10.1
                                                        En. S.Y.T. 1974 (2nd), c. 2
                                                        Rp. S.Y.T. 1983, c. 26
Low Cost Housing
                                      L-11
                                                        In. R.S.Y.T. 1971, c. L-11
                                                        See Territorial Court
Magistrate's Court
                                      M-1
Maintenance
                                      M-2
                                                        In. R.S.Y.T. 1971, c. M-2
                                                        Am. S.Y.T. 1980 (1st), c. 30, s. 34
                                                        Rp. S.Y.T. 1980 (2nd), c. 15
                                                        See Matrimonial Property &
                                                         Family Support.
```

Maintenar Enforceme	nce and Custody Orders ent	M-2.1	En. S.Y.T. 1986, c. 11
Marriage		M-3	In. R.S.Y.T. 1971, c. M-3 Am. S.Y.T. 1981 (1st), c. 10, s. 5 Am. S.Y.T. 1984, c. 45, s. 25 Am. S.Y.T. 1985, c. 9, s. 9
Married N	domen's Property	M-4	In. R.S.Y.T. 1971, c. M-4
Matrimon	ial Property	M-4.1	See Matrimonial Property & Family Support
Matrimon Family S	tal Property & Support	M-4.1	En. S.Y.T. 1979 (2nd), c. 11 Am. S.Y.T. 1980 (2nd), c. 15 Am. S.Y.T. 1980 (2nd), c. 16, s. 10 Am. S.Y.T. 1981 (2nd), c. 11, s. 3 Am. S.Y.T. 1984, c. 2, s. 191 Am. S.Y.T. 1985, c. 28 Am. S.Y.T. 1986, c. 11, s. 32
Mechanic	s' Lien	M-5	In. R.S.Y.T. 1971, c. M-5 Am. S.Y.T. 1980 (2nd), c. 20, s. 82 Am. S.Y.T. 1984, c. 45, s. 26 Am. S.Y.T. 1985, c. 9, s. 10
Mediation	n Board	M-5.1	En. S.Y.T. 1972 (1st), c. 9 Am. S.Y.T. 1984, c. 22, s. 4
Medical (	Profession	M-6	In. R.S.Y.T. 1971, c. M-6 Am. S.Y.T. 1975 (3rd), c. 11 Am. S.Y.T. 1978 (1st), c. 7 Rp. S.Y.T. 1979 (2nd), c. 12, s. 63
Medical I	Profession	M-6.1	En. S.Y.T. 1979 (2nd), c. 12 Am. S.Y.T. 1980 (2nd), c. 16, s. 11 Am. S.Y.T. 1983, c. 13 Am. S.Y.T. 1984, c. 36 Am. S.Y.T. 1985, c. 29, s.9 Am. S.Y.T. 1987, c. 4
Mental He	ealth	M-7	In. R.S.Y.T. 1971, c. M-7 Am. S.Y.T. 1973 (1st), c. 14 Am. S.Y.T. 1980 (1st), c. 20, s. 18 Am. S.Y.T. 1984, c. 21 Am. S.Y.T. 1985, c. 9, s. 11
Metric I	nformation Agreement	N.C.N.R.	En. S.Y.T. 1977 (2nd), c. 12
Miners' I	Lien	M-8	In. R.S.Y.T. 1971, c. M-8
Mining Sa	afety	M-9	In. R.S.Y.T. 1971, c. M-9 Am. S.Y.T. 1974 (2nd), c. 10 Am. S.Y.T. 1975 (1st), c. 15 Am. S.Y.T. 1978 (1st), c. 8 Rp. S.Y.T. 1984, c. 46
Motion P	ictures	M-10	In. R.S.Y.T. 1971, c. M-10 Rp. S.Y.T. 1981 (2nd), c. 12, s. 2
Motor Tra	ansport		In. R.S.Y.T. 1971, c. T-4 Am. S.Y.T. 1980 (1st), c. 32 Am. S.Y.T. 1980 (2nd), c. 16, s. 14 Am. S.Y.T. 1982 (1st), c. 8 Am. S.Y.T. 1984, c. 31 Am. S.Y.T. 1985, c. 9, s. 12

```
M-11
Motor Vehicles
                                                                   In. R.S.Y.T. 1971, c. M-11
                                                                   Am S.Y.T. 1972 (1st), c. 23
Am. S.Y.T. 1973 (1st), c. 15
Am. S.Y.T. 1974 (2nd), c. 11
                                                                   Am. S.Y.T. 1975 (3rd), c. 12
Am. S.Y.T. 1976 (2nd), c. 4
Am. S.Y.T. 1977 (1st), c. 1, s. 236
                                                                   Ro. S.Y.T. 1977 (2nd), c. 4, s. 258
Motor Vehicles
                                                                   En. S.Y.T. 1977 (2nd), c. 4
                                              M-11.1
                                                                   Am. S.Y.T. 1980 (1st), c. 20, s. 19
                                                                   Am. S.Y.T. 1980 (1st), c. 21
Am. S.Y.T. 1980 (1st), c. 30, s. 35
Am. S.Y.T. 1980 (1st), c. 32, s. 26
                                                                   Am. S.Y.T. 1980 (2nd), c. 17, s. 440
                                                                   Am. S.Y.T. 1981 (2nd), c. 11, s. 4
Am. S.Y.T. 1982, c. 26
                                                                   Am. S.Y.T. 1983, c. 24*
                                                                   Am. S.Y.T. 1984, c. 23
Am. S.Y.T. 1985, c. 30
Am. S.Y.T. 1985, c. 29, s. 21
                                                                  En. S.Y.T. 1972 (1st), c. 10
Am. S.Y.T. 1975 (1st), c. 16
Am. S.Y.T. 1975 (2nd), c. 14
Municipal
                                              M-12
                                                                   Am. S.Y.T. 1976 (3rd), c. 10
                                                                   Am. S.Y.T. 1977 (2nd), c. 7
Am. S.Y.T. 1980 (1st), c. 20, s. 20
Am. S.Y.T. 1980 (1st), c. 30, s. 35
                                                                   Rp. S.Y.T. 1980 (2nd), c. 17, s. 441
                                                                  En. S.Y.T. 1980 (2nd), c. 17
Am. S.Y.T. 1981 (1st), c. 10, s. 7
Municipal
                                              M-12.1
                                                                   Am. S.Y.T. 1981 (2nd), c. 11, s. 5
                                                                   Am. S.Y.T. 1981 (2nd), c. 13
Am. S.Y.T. 1982, c. 13
                                                                   Am. S.Y.T. 1983, c. 13
                                                                  Am. S.Y.T. 1983, c. 25
Am. S.Y.T. 1985, c. 4
Am. S.Y.T. 1985, c. 12, s. 13
Municipal Aid
                                              M-13
                                                                  En. S.Y.T. 1972 (1st), c. 11
Rp. S.Y.T. 1981 (1st), c. 11, s. 21
                                                                   En. S.Y.T. 1986, c. 24*
Municipla and Community
                                              M-13.1
Infrastructure Grants Act
Municipal Elections
                                              M-14
                                                                   En. S.Y.T. 1972 (1st), c. 12
                                                                   Rp. S.Y.T. 1980 (2nd), c. 17, s. 441
Municipal Employees Benefits
                                             M-15
                                                                   En. S.Y.T. 1975 (2nd), c. 1
                                                                   Rp. S.Y.T. 1980 (2nd), c. 17, s. 441
                                                                  En. S.Y.T. 1981 (1st), c. 11
Am. S.Y.T. 1981 (2nd), c. 11, s. 6
Municipal Finance
                                             M-15.1
                                                                   Am. S.Y.T. 1981 (2nd), c. 14
                                                                  Am. S.Y.T. 1982, c. 27
Am. S.Y.T. 1984, c. 24
                                                                   Am. S.Y.T. 1986, c. 25
Municipal General Purposes
                                             N.C.N.R.
                                                                  En. S.Y.T. 1974 (2nd), c. 25
  Loan (1974)
                                             N.C.N.R.
Municipal General Purposes
                                                                  En. S.Y.T. 1975 (1st), c. 23
  Loan (1975)
Municipal General Purposes
                                             N.C.N.R.
                                                                  En. S.Y.T. 1976 (1st), c. 15
  Loan (1976)
Municipal General Purposes
                                             N.C.N.R.
                                                                  En. S.Y.T. 1977 (1st), c. 20
  Loan (1977)
```

Municipal General Purposes Loan (1978)	N.C.N.R.	En. S.Y.T. 1978 (1st), c. 21
Municipal General Purposes Loan (1979)	N.C.N.R.	En. S.Y.T. 1979 (1st), c. 10
Municipal General Purposes Loan (1980)	N.C.N.R.	En. S.Y.T. 1980 (1st), c. 22 Am. S.Y.T. 1980 (2nd), c. 18
Municipal General Purposes Loan (1981)	N.C.N.R.	En. S.Y.T. 1981 (1st), c. 12
Municipal General Purposes Loan, 1986	N.C.N.R.	En. S.Y.T. 1986, c. 13
Newspaper	N-1	In. R.S.Y.T. 1971, c. N-1 Rp. S.Y.T. 1981 (2nd), c. 12, s. 3
Noise Prevention	N-2	In. R.S.Y.T. 1971, c. N-2 Am. S.Y.T. 1985, c. 31
Notaries	N-3	In. R.S.Y.T. 1971, c. N-3 Am. S.Y.T. 1974 (2nd), c. 12 Am. S.Y.T. 1984, c. 45, s. 27 Am. S.Y.T. 1985, c. 29, s. 11
Northern Natural Gas Pipeline Agreement	N.C.N.R.	En. S.Y.T. 1979 (1st), c. 4
Occupational Health and Safety	005	En. S.Y.T. 1984, c. 46
Occupational Training	0-0.1	En. S.Y.T. 1975 (1st), c. 6
Old Age Assistance and Blind Persons' Allowance	0-1	In. R.S.Y.T. 1971, c. 0-1 Rp. S.Y.T. 1975 (1st), c. 12
Optometry	0-2	In. R.S.Y.T. 1971, c. 0-2 Am. S.Y.T. 1982, c. 28 Am. S.Y.T. 1985, c. 29, s. 12
Parks	P-01	En. S.Y.T. 1979 (2nd), c. 13 Am. S.Y.T. 1980 (2nd), c. 16, s. 12 Am. S.Y.T. 1983, c 19
Partnership	P-1	In. R.S.Y.T. 1971, c. P-1 Am. S.Y.T. 1977 (2nd), c. 8 Am. S.Y.T. 1980 (1st), c. 20, s. 21 Am. S.Y.T. 1980 (2nd), c. 19 Am. S.Y.T. 1980 (2nd), c. 20, s. 83 Am. S.Y.T. 1982, c. 29 Am. S.Y.T. 1985, c. 32
Pawnbrokers and Second- Hand Dealers	P-2	In. R.S.Y.T. 1971, c. P-2
Perpetuities	P-3	In. R.S.Y.T. 1971, c. P-3 Rp. S.Y.T. 1980 (1st), c. 23
Perpetuities	P-3.1	En. S.Y.T. 1980 (1st), c. 23
Personal Property Security	P-3.2	En. S.Y.T. 1980 (2nd), c. 20 Am. S.Y.T. 1982, c. 30 Am. S.Y.T. 1986, c. 12, s. 12
Pharmaceutical Chemists	P-4	In. R.S.Y.T. 1971, c. P-4 Am. S.Y.T. 1973 (1st), c. 16 Am. S.Y.T. 1975 (3rd), c. 13

Pioneer Utility Grant	P-4.1	En. S.Y.T. 1978 (1st), c. 1 Am. S.Y.T. 1980 (1st), c. 20, s. 22 Am. S.Y.T. 1981 (1st), c. 13 Am. S.Y.T. 1981 (2nd), c. 11, s. 7 Am. S.Y.T. 1982 (1st), c. 6 Am. S.Y.T. 1984, c. 47
Plebiscite	P-5	In. R.S.Y.T. 1971, c. P-5
Pounds	P-6	In. R.S.Y.T. 1971, c. P-6 Am. S.Y.T. 1973 (1st), c. 17 Am. S.Y.T. 1980 (1st), c. 20, s. 23 Am. S.Y.T. 1985, c. 29, s. 13
Presumption of Death	P-7	In. R.S.Y.T. 1971, c. P-7 Rp. S.Y.T. 1980 (1st), c. 24
Presumption of Death	P-7.1	En. S.Y.T. 1980 (1st), c. 24
Public Health	P-8	In. R.S.Y.T. 1971, c. P-8 Am. S.Y.T. 1972 (1st), c. 24 Am. S.Y.T. 1975 (3rd), c. 14 Am. S.Y.T. 1985, c. 9, s. 13
Public Inquiries	P-8.1	En. S.Y.T. 1973 (1st), c. 5
Public Lotteries	P-8.2	En. S.Y.T. 1983, c. 26
Public Printing	P-9	In. R.S.Y.T. 1971, c. P-9
Public Sector Compensation Restraint (Yukon)	P-9.1	En. S.Y.T. 1982, c. 31 Am. S.Y.T. 1983, c. 7 Am. S.Y.T. 1984, c. 25
Public Service	P-10	In. R.S.Y.T. 1971, c. P-10 Rp. S.Y.T. 1976 (2nd), c. 2, s. 217
Public Service Commission	P-10.1	En. S.Y.T. 1976 (2nd), c. 2 Am. S.Y.T. 1987, c. 5*
Public Service Staff Relations	P-11	In. R.S.Y.T. 1971, c. P-11 Am. S.Y.T. 1974 (2nd), c. 13 Am. S.Y.T. 1976 (3rd), c. 11 Am. S.Y.T. 1985, c. 29, s. 14 Am. S.Y.T. 1987, c. 6*
Public Utilities	P-12	En. S.Y.T. 1984, c. 26
Purchase and Supply Services Agreement	N.C.N.R.	En. S.Y.T. 1973 (1st), c. 31
Raven	R-0.05	En. S.Y.T. 1985, c. 33
Real Estate Agents' Licensing	R-0.1	En. S.Y.T. 1977 (1st), c. 5 Am. S.Y.T. 1980 (1st), c. 20, s. 24 Am. S.Y.T. 1984, c. 27 Am. S.Y.T. 1986, c. 12, s. 13
Reciprocal Enforcement of Judgments	R-1	In. R.S.Y.T. 1971, c. R-1 Am. S.Y.T. 1980 (2nd), c. 21 Am. S.Y.T. 1981 (1st), c. 10, s. 8 Am. S.Y.T. 1985, c. 29, s. 15
Reciprocal Enforcement of Maintenance Orders	R-2	In. R.S.Y.T. 1971, c. R-2 Rp. S.Y.T. 1980 (1st), c. 25
Reciprocal Enforcement of Maintenance Orders	R-2.1	En. S.Y.T. 1980 (1st), c. 25 Am. S.Y.T. 1985, c. 34 Am. S.Y.T. 1986, c. 11, s. 33
Recording of Evidence by Sound Apparatus	R-3	In. R.S.Y.T. 1971, c. R-3

Recreation	R-3.05	En. S.Y.T. 1983, c. 27 Am. S.Y.T. 1985, c. 29, c. 16
Recreation Development	R-3.1	En. S.Y.T. 1977 (1st), c. 6 Am. S.Y.T. 1980 (2nd), c. 17, s. 440 Rp. S.Y.T. 1983, c. 27
Regulations	R-4	In. R.S.Y.T. 1971, c. R-4 Am. S.Y.T. 1980 (1st), c. 20, s. 25 Am. S.Y.T. 1984, c. 45, s. 28
Rehabilitation Services	R-5	In. R.S.Y.T. 1971, c. R-5 Am. S.Y.T. 1975 (1st), c. 17
Rental-Purchase Housing	N.C.N.R.	En. S.Y.T. 1972 (1st), c. 25
Retirement Plan Beneficiaries	R-5.1	En. S.Y.T. 1979 (2nd), c. 14 Am. S.Y.T. 1985, c. 35
Revised Statutes	R-5.2	En. S.Y.T. 1986, c. 14 Am. S.Y.T. 1986, c. 12, s. 14
Robert Campbell Bridge Agreement	N.C.N.R.	En. S.Y.T. 1973 (4th), c. 32
Sale of Goods	S-1	In. R.S.Y.T. 1971, c. S-1 Am. S.Y.T. 1985, c. 36
Saw Logs Driving	S-2	In. R.S.Y.T. 1971, c. S-2 Rp. S.Y.T. 1981 (2nd), c. 12, s. 4
School School	S-3	In. R.S.Y.T. 1971, c. S-3 Rp. S.Y.T. 1974 (2nd), c. 14
School School	S-3.1	En. S.Y.T. 1974 (2nd), c. 14 Am. S.Y.T. 1980 (2nd), c. 22 Am. S.Y.T. 1983, c. 8 Am. S.Y.T. 1984, c. 22, s. 5
School Trespass	S-3.2	En. S.Y.T. 1981 (1st), c. 14
Scientists and Explorers	S-4	In. R.S.Y.T. 1971, c. S-4
Second Appropriation, 1972-73	N.C.N.R.	En. S.Y.T. 1972 (1st), c. 29
Second Appropriation, 1973-74	N.C.N.R.	En. S.Y.T. 1973 (1st), c. 22
Second Appropriation, 1974-75	N.C.N.R.	En. S.Y.T. 1974 (2nd), c. 18
Second Appropriation, 1975-76	N.C.N.R.	En. S.Y.T. 1975 (2nd), c. 17
Second Appropriation, 1976-77	N.C.N.R.	En. S.Y.T. 1977 (1st), c. 18
Second Appropriation, 1977-78	N.C.N.R.	En. S.Y.T. 1977 (1st), c. 16
Second Appropriation, 1978-79	N.C.N.R.	En. S.Y.T. 1979 (1st), c. 6
Second Appropriation, 1979-80	N.C.N.R.	En. S.Y.T. 1980 (1st), c. 26
Second Appropriation, 1980-81	N.C.N.R.	En. S.Y.T. 1980 (1st), c. 27
Second Appropriation, 1981-82	N.C.N.R.	En. S.Y.T. 1981 (1st), c. 15
Second Appropriation, 1982-83	N.C.N.R.	En. S.Y.T. 1982, c. 32
Second Appropriation, 1983-84	N.C.N.R.	En. S.Y.T. 1983, c. 9
Second Appropriation, 1984-85	N.C.N.R.	En. S.Y.T. 1984, c. 28
Second Appropriation, 1985-86	N.C.N.R.	Am. S.Y.T. 1985, c. 37
Second Appropriation, 1986-87	N.C.N.R.	En. S.Y.T. 1986, c. 15

Securities	S-5	In. R.S.Y.T. 1971, c. S-5 Am. S.Y.T. 1976 (3rd), c. 12 Am. S.Y.T. 1980 (1st), c. 20, s. 26 Am. S.Y.T. 1980 (2nd), c. 20, s. 84 Am. S.Y.T. 1983, c. 13 Am. S.Y.T. 1984, c. 29 Am. S.Y.T. 1985, c. 9, s. 14 Am. S.Y.T. 1986, c. 12, s. 15
Seniors' Income Supplement	S-5.1	En. S.Y.T. 1982 (1st), c. 7
Sixth Appropriation, 1974-75	N.C.N.R.	En. S.Y.T. 1975 (1st), c. 19
Small Claims Court	S-5.2	En. S.Y.T. 1986, c. 16
Social Assistance	S-6	In. R.S.Y.T. 1971, c. S-6 Am. S.Y.T. 1980 (2nd), c. 16, s. 13
Societies	S-7	In. R.S.Y.T. 1971, c. S-7 Am. S.Y.T. 1974 (2nd), c. 15 Am. S.Y.T. 1980 (1st), c. 20, s. 27 Am. S.Y.T. 1980 (2nd), c. 23 Am. S.Y.T. 1983, c. 13 Am. S.Y.T. 1986, c. 12, s. 16
Society of Industrial Accountants	S-7.1	See Society of Management Accountants
Society of Management Accountants	S-7.2	En. S.Y.T. 1975 (2nd), c. 2 Am. S.Y.T. 1977 (2nd), c. 9 Am. S.Y.T. 1983, c. 28
Special Rural Development Agreement (Special ARDA)	N.C.N.R.	En. S.Y.T. 1978 (1st), c. 15
Stabilization Fund Loan	S-7.3	En. S.Y.T. 1977 (1st), c. 7 Am. S.Y.T. 1978 (1st), c. 9 Rp. S.Y.T. 1980 (1st), c. 29
Steam Boilers	S <b>-8</b>	In. R.S.Y.T. 1971, c. S-8 Rp. S.Y.T. 1979 (2nd), c. 1, s. 4
Students' Financial Assistance	S-8.1	En. S.Y.T. 1975 (2nd), c. 3 Am. S.Y.T. 1978 (1st), c. 10 Am. S.Y.T. 1982, c. 14 Am. S.Y.T. 1983, c. 19 Am. S.Y.T. 1985, c. 29, s. 17 Am. S.Y.T. 1986, c. 17
Students' Grants	S-9	In. R.S.Y.T. 1971, c. S-9 Rp. S.Y.T. 1975 (2nd), c. 6
Summary Convictions	S-9.1	En. S.Y.T. 1980 (1st), c. 30 Am. S.Y.T. 1985, c. 38
Superannuation, Territorial Employees	S-10	In. R.S.Y.T. 1971, c. S-10 Am. S.Y.T. 1975 (2nd), c. 16
Supervision of Federal Parolees Agreement	N.C.N.R.	En. S.Y.T. 1975 (1st), c. 7
Supreme Court	S-10.1	In. R.S.Y.T. 1971, c. T-2 Am. S.Y.T. 1971 (3rd), c. 3 Am. S.Y.T. 1979 (2nd), c. 15 Am. S.Y.T. 1980 (1st), c. 28, s. 3 Am. S.Y.T. 1983, c. 16 Am. S.Y.T. 1986, c. 16, s. 13
Survival of Actions	S-10.2	En. S.Y.T. 1981 (1st), c. 16
Survivorship	S-11	In. R.S.Y.T. 1971, c. S-11 Rp. S.Y.T. 1980 (1st), c. 31

Survivorship	S-11.1	En. S.Y.T. 1980 (1st), c. 31
Taxation	T-0.1	See Assessment and Taxation
Tenants in Common	T-1	In. R.S.Y.T. 1971, c. T-1
Territorial Court	T-2	See Supreme Court
Territorial Court	T-2.05	In. R.S.Y.T. 1971, c. M-1 Am. S.Y.T. 1979 (2nd), c. 2 Am. S.Y.T. 1980 (1st), c. 28, s. 2 Am. S.Y.T. 1983, c. 10 Am. S.Y.T. 1985, c. 29, s. 18 Am. S.Y.T. 1986, c. 16, s. 12
Territorial Municipal Employment Loans	N.C.N.R.	En. S.Y.T. 1973 (1st), c. 33
Third Appropriation, 1972-73	N.C.N.R.	En. S.Y.T. 1973 (1st), c. 19
Third Appropriation, 1973-74	N.C.N.R.	En. S.Y.T. 1973 (3rd), c. 23
Third Appropriation, 1974-75	N.C.N.R.	En. S.Y.T. 1974 (2nd), c. 19
Third Appropriation, 1975-76	N.C.N.R.	En. S.Y.T. 1975 (3rd), c. 15
Third Appropriation, 1976-77	N.C.N.R.	En. S.Y.T. 1978 (1st), c. 16
Third Appropriation, 1977-78	N.C.N.R.	En. S.Y.T. 1977 (1st), c. 17
Third Appropriation, 1978-79	N.C.N.R.	En. S.Y.T. 1979 (2nd), c. 17
Third Appropriation, 1979-80	N.C.N.R.	En. S.Y.T. 1980 (2nd), c. 24
Third Appropriation, 1980-81	N.C.N.R.	En. S.Y.T. 1981 (1st), c. 17
Third Appropriation, 1981-82	N.C.N.R.	En. S.Y.T. 1981 (1st), c. 18
Third Appropriation, 1982-83	N.C.N.R.	En. S.Y.T. 1982, c. 33
Third Appropriation, 1983-84	N.C.N.R.	En. S.Y.T. 1983, c. 11
Third Appropriation, 1984-85	N.C.N.R.	En. S.Y.T. 1984, c. 30 Am. S.Y.T. 1985, c. 40
Third Appropriation, 1985-86	N.C.N.R.	En. S.Y.T. 1985, c. 39
Third Appropriation, 1986-87	N.C.N.R.	En. S.Y.T. 1986, c. 18
Tobacco Tax	T-2.1	En. S.Y.T. 1974 (2nd), c. 3 Am. S.Y.T. 1976 (1st), c. 9 Am. S.Y.T. 1978 (1st), c. 12 Am. S.Y.T. 1981 (1st), c. 19 Am. S.Y.T. 1986, c. 10, s. 2
Trade Schools Regulation	T-3	In. R.S.Y.T. 1971, c. T-3
Transfer of Prisoners Agreement	N.C.N.R.	En. S.Y.T. 1975 (1st), c. 8
Transport Public Utilities	T-4	See Motor Transport
Travel for Medical Treatment	T-4.1	En. S.Y.T. 1975 (2nd), c. 4
Travel Industry Development Agreement	N.C.N.R.	En. S.Y.T. 1975 (2nd), c. 5
Trustee	T-5	In. R.S.Y.T. 1971, c. T-5 Am. S.Y.T. 1980 (1st), c. 33 Am. S.Y.T. 1981 (1st), c. 16, s. 12 Am. S.Y.T. 1985, c. 29, s. 19

Unemployment Assistance Agreement Repeal	N.C.N.R.	En. S.Y.T. 1975 (1st), c. 13
Variation of Trusts	V-1	In. R.S.Y.T. 1971, c. V-1
Vital Statistics	V-2	In. R.S.Y.T. 1971, c. V-2 Am. S.Y.T. 1973 (1st), c. 18 Am. S.Y.T. 1984, c. 2, s. 192 Am. S.Y.T. 1985, c. 9, s. 15 Rp. S.Y.T. 1986, c. 19, s. 42*
Vital Statistics	V-2.1	En. S.Y.T. 1986, c. 19*
Wages Recovery	W-1	In. R.S.Y.T. 1971, c. W-1 Rp. S.Y.T. 1984, c. 5, s. 108
Warehouse Receipts	W-1.5	En. S.Y.T. 1981 (2nd), c. 15
Warehousemen's Lien	W-2	In. R.S.Y.T. 1971, c. W-2 Am. S.Y.T. 1980 (2nd), c. 20, s. 85
Whitehorse, An Ordinance to open a certain portion of Land in the City of		En. S.Y.T. 1978 (1st), c. 13
Whitehorse General Purposes Loan (1972)	N.C.N.R.	En. S.Y.T. 1972 (1st), c. 32
Whitehorse General Purposes Loan (1973)	N.C.N.R.	En. S.Y.T. 1973 (1st), c. 34
Whitehorse (Takhini and Valleyview) Lands	N.C.N.R.	En. S.Y.T. 1975 (2nd), c. 18
Wildlife	W-2.5	En. S.Y.T. 1981 (2nd), c. 16 Am. S.Y.T. 1982, c. 15 Am. S.Y.T. 1982, c. 34 Am. S.Y.T. 1984, c. 45, s. 29 Am. S.Y.T. 1985, c. 40
Wills	W-3	In. R.S.Y.T. 1971, c. W-3 Am. S.Y.T. 1985, c. 29, s. 20
Woodmen's Lien	W-4	In. R.S.Y.T. 1971, c. W-4 Am. S.Y.T. 1980 (2nd), c. 20, s. 86 Rp. S.Y.T. 1984, c. 45, s. 31
Workers' Compensation	W-4.1	In. R.S.Y.T. 1971, c. W-5 Rp/Re. S.Y.T. 1973 (3rd), c. 6 Am. S.Y.T. 1975 (3rd), c. 6, s. 4 Am. S.Y.T. 1977 (2rd), c. 10 Am. S.Y.T. 1980 (1st), c. 20, s. 28 Am. S.Y.T. 1981 (1st), c. 10, s. 6 Am. S.Y.T. 1982, c. 35 Am. S.Y.T. 1983, c. 19 Am. S.Y.T. 1983, c. 29 Am. S.Y.T. 1984, c. 45, s. 30 Am. S.Y.T. 1986, c. 26
Workmen's Compensation	W-5	See Workers' Compensation
Workmen's Compensation Supplementary Benefits	N.C.N.R.	En. S.Y.T. 1973 (3rd), c. 7
Young Offenders Agreement	N.C.N.R.	En. S.Y.T. 1984, c. 32
Young Offenders Welfare Agreement	N.C.N.R.	En. S.Y.T. 1976 (2nd), c. 3
Young Voyageur Agreement	N.C.N.R.	En. S.Y.T. 1975 (1st), c. 9
Yukon Council	Y-1	See Legislative Assembly

Yukon Development Corporation	Y-1.5	En. S.Y.T. 1985, c. 41
Yukon River Basin Study Agreement	N.C.N.R.	En. S.Y.T. 1980 (1st), c. 34 Am. S.Y.T. 1983, c. 30
Yukon Tartan	Y-2	En. S.Y.T. 1984, c. 48

- 70 -